

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee  
**AUTHOR/S:** Head of Development Management

7 December 2016

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**Application Number:** S/0121/16/FL

**Parish(es):** Willingham

**Proposal:** Retrospective change of use of the chalet building from nil use to residential use

**Site address:** The Oaks, Meadow Road, Willingham, Cambridgeshire CB24 5JL

**Applicant(s):** Mr Tom Buckley

**Recommendation:** Approval

**Key material considerations:** Planning Policy and Principle  
Lawful Development  
Access and Highway Safety  
Design Considerations  
Landscape and Visual Amenity  
Flood Risk & Drainage

**Committee Site Visit:** 1 November 2016

**Departure Application:** No

**Presenting Officer:** William Allwood, Principal Planning Officer

**Application brought to Committee because:** The application has been Called-in by a Ward Member.

**Date by which decision due:** 04 November 2016 (Extension of Time)

### Executive Summary

1. The application seeks full planning permission for the retrospective change of use of the chalet building from nil use to residential use at the Oaks, Meadow Road, Willingham. The original description of the application was for *the retrospective authorisation of the residential use of the chalet building*; subsequently the description was changed to that as within the Proposal as above.
2. The application site is located within the open countryside to the east of Willingham village. The site and its wider environs has been the subject to extensive planning history, which will be expanded upon within this Report. This application was withdrawn from the Agenda for the November 2016 Planning Committee in order to discuss the proposed planning conditions with the applicant, and to properly report the latest

comments from Willingham Parish Council

3. Evidence submitted by the applicant is that the building was substantially complete and occupied as a dwelling at or around July 2009. In August 2016, a Certificate of Lawful Use was granted at appeal for the carrying out of development by the erection of a building, but not its use as a dwelling, as the use as a dwelling house would not become lawful until after the passage of 10 years continuous residential use; the test for the erection of a building is 4 years.
4. The lawful existing building does not materially impact upon the landscape character of the area, nor introduce highway safety concerns; the application site is not within Flood Zone 2 or 3. Therefore, and given the above, the issues to consider are whether given the fact that the building is now lawful, and has been used as a dwelling house for over 7 years, the Local Planning Authority should take a view to refuse the application and render the building potentially use-less in planning terms.
5. However, it is the opinion that given the above, the Local Planning Authority should APPROVE the application, subject to an occupancy tie to the use of the land at the Oaks, and conditions removing any permitted development rights to extend or alter the building.

### **Site and Surroundings**

6. The Oaks is a roughly rectangular parcel of land, measuring approximately 0.8 ha, located on the north side of Meadow Road, Willingham. It lies outside the defined village framework and sits within a generally flat and open fen-edge landscape. The site is surrounded by mature hedgerows, except at the point of access where a driveway runs in a northerly direction for around 200 metres along the full length of the site. The land itself is sub-divided into a series of paddocks for horses by use of post and rail timber fencing.
7. Additionally a mobile caravan and stables/tack room/day room can be found to the far north of the site. This application does not relate to these developments. The building subject to this application is situated to the southern part of the site, close to its boundary with Meadow Road.

### **Proposals**

8. The planning application relates to the retention of the chalet building for use as a dwelling. The building is rectangular in plan form, containing a living room/ kitchen area, 2no. bedrooms and bathroom. The structure is constructed of brown stained tongue and groove timber, with stained timber casement frames and doors, under a brown profiled composite shingle roof. The chalet building measures 12.19m. (including eaves overhang) by 6.0m, with an eaves height of 2.2m, and a ridge height of 3.3m.
9. The area immediately around the building is characterised as a small grassed garden area to the north side, a concrete slabbed patio area to the west elevation, compacted gravel to the south, and dog kennels and runs to the east.

### **Planning History**

10. As advised within the *Executive Summary*, the wider site at the Oaks is subject to an extensive planning history, thus:
  - Planning permission (S/1243/08) granted for the siting of two gypsy mobile

- homes. Temporary permission granted until 30th September 2011
- Application (ref S/0724/09/LDC) made for a Lawful Development Certificate by Tom Buckley to establish the structure on site complies with the legal definition of a caravan. This application remains undetermined by the Local Planning Authority.
  - Planning permission (S/2065/10) refused for four gypsy and traveller pitches.
  - Planning permission (S/1692/11) granted to extend the temporary permission approved under reference S/1243/08 for the siting of two gypsy mobile homes until 30th October 2012.
  - Planning application (S/0307/12/F) refused for the continued use of land for long stay caravan site for two gypsy families (1 mobile home 1 tourer per pitch). Appeal Dismissed (ref APP/W0530/A/12/2174826).
  - Certificate of Lawful Use or Development (Existing) for use as building as a dwelling (S/1476/13/LD). The application was refused by South Cambridgeshire District Council as Local Planning Authority on the 12<sup>th</sup> March 2014. A subsequent appeal to the Secretary of State (APP/W0530/X/14/3001710) was allowed on the 11<sup>th</sup> August 2016. In coming to her decision, the Inspector altered the description of the proposal to “Development of a building more than 4 years prior to 4 July 2013”
  - Planning permission (S/1451/14/FL) refused on the 14<sup>th</sup> November 2014 for the change of use to Gypsy and Traveller residential use, involving the siting of two caravans of which one would be a mobile home, together with associated hardstanding. A subsequent appeal (APP/W0530/W/14/3001030) to the Secretary of State was allowed on the 11<sup>th</sup> August 2016. In coming to her decision, the Inspector altered the description of the proposal to “use of the land as a gypsy and traveller caravan site, involving the siting of two caravans, of which one would be a mobile home”.
  - Planning permission (S/1514/14/FL) refused on the 07<sup>th</sup> October 2014 for upgrading existing equestrian development by the installation of a horse exerciser and a riding arena, together with the siting of a residential mobile home as a dwelling to support the rural based enterprise. A subsequent appeal (APP/W0530/W/15/3004411) to the Secretary of State was allowed on the 11<sup>th</sup> August 2016; the mobile home is permitted ancillary to the equestrian use and for a limited period of 3 years.

## **Planning Policy**

11. The following policies are considered relevant to this application.

### **National Guidance**

*National Planning Policy Framework 2012 (NPPF)*  
*National Planning Practice Guidance 2014 (NPPG)*  
*Planning Policy for Traveller Sites 2015 (PPTS)*

### **Development Plan Policies**

*South Cambridgeshire LDF Core Strategy DPD, 2007:*  
 ST/5 Minor Rural Centres

*South Cambridgeshire LDF Development Control Policies DPD, 2007:*  
 DP/1 Sustainable Development  
 DP/2 Design of New Development  
 DP/3 Development Criteria  
 DP/7 Development Frameworks

ET/7 Conversion of Rural Buildings for Employment  
HG/8 Conversion of Buildings in the Countryside for Residential Use  
HG/9 Dwelling to Support a Rural-based Enterprise  
NE/4 Landscape Character Areas  
NE/6 Biodiversity  
NE/9 Water and Drainage Infrastructure  
NE/11 Flood Risk  
TR/1 Planning For More Sustainable Travel  
TR/2 Car and Cycle Parking Standards  
TR/3 Mitigating Travel Impact

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

District Design Guide - Adopted March 2010  
Trees & Development Sites – Adopted January 2009  
Landscape in New Developments SPD - Adopted March 2010  
Biodiversity SPD - Adopted July 2009

*South Cambridgeshire Local Plan Submission - March 2014*

S/1 Vision  
S/2 Objectives of the Local Plan  
S/3 Presumption in Favour of Sustainable Development  
S/6 The Development Strategy to 2031  
S/7 Development Frameworks  
S/9 Minor Rural Centres  
CC/6 Construction Methods  
CC/7 Water Quality  
CC/8 Sustainable Drainage Systems  
CC/9 Managing Flood Risk  
HQ/1 Design Principles  
NH/2 Protecting and Enhancing Landscape Character  
NH/4 Biodiversity  
TI/3 Parking Provision

## **Consultation**

12. **Willingham Parish Council** - recommends REFUSAL on the grounds that there is a history of temporary permissions on the site and the Council believe that this dwelling was part and parcel of those applications. The Parish Council have always opposed and continue to do so, all development to the North of Meadow Road, which is in the green belt as confirmed by the Planning Inspector at a previous hearing. (NB. *It should be noted that this site is not within the Cambridge Green Belt*)
13. Willingham Parish Council were further consulted following the amendment to the description of the application to *Retrospective change of use of the chalet building from nil use to residential use*, and chose to make *No recommendation*. In addition, Willingham Parish Council met on the 12<sup>th</sup> October 2016, where they reaffirmed their original recommendation that the application should be refused, thus:

*Willingham Parish Council recommend refusal. As previously stated in March 2016, the Council has always consistently recommended refusal and will continue to for developments North of Meadow Road encroaching on open countryside.*

## **Representations**

14. None received.

## **Planning Assessment**

15. Applications are to be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. The adopted Development Plan comprises the South Cambridgeshire Core Strategy DPD, 2007, Development Control Policies DPD, 2007 and Site Specific Policies DPD.
16. The emerging Local Plan comprises the South Cambridgeshire Local Plan, Proposed Submission Version, July 2013 and associated Policies Map. This plan has not yet been adopted and remains subject to independent examination; therefore very limited weight can be attached to the policies contained therein at this time.
17. The key issues in relation to this application are considered to be Planning Policy and Principle, Lawful Use, Access and Highway Safety, Design Considerations, Landscape and Visual Amenity, Flood Risk and Drainage.

## **Planning Policy and Principle**

18. The National Planning Policy Framework 2012 (the Framework) sets out at its heart that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through decision-taking. There are three well established dimensions of sustainable development, economic, social and environmental, which should be sought jointly and simultaneously, and development should be guided to sustainable locations.
19. The general planning presumption is against new housing development in the open countryside, unless and exceptionally for bone fide agricultural, or other land management need, or for those with gypsy or traveller status.
20. The applicants' agent has advised that the application is not submitted on the basis of claiming Gypsy status in accordance with the definition in Annex 1 of the Planning Policy for Traveller Sites (PPTS); the applicants however are described as ethnic Romany Gypsies with a cultural tradition of caravan dwelling.

## **Lawful Use**

21. As previously advised, the status of the chalet building has been clarified by way of the grant of the Lawful Development Certificate at appeal in August 2016. The Inspector at appeal found that the building was substantially completed on or before the 04 July 2009; this position was also accepted by the Council. The occupants of the chalet building are engaged in the land management function associated with the wider use of the land known as the Oaks. It is therefore appropriate to condition the occupation of the building as such.
22. Therefore, the issues to consider by way of this planning application are whether the use of this authorised building as a dwelling house would result in material harm to the character and amenity of the countryside. In terms of the domestic garden and paraphernalia associated with the dwelling use, this is limited to a small grassed area to the north side of the building, and a patio area to the west side adjacent to the principle entrance door. These areas in themselves do not materially harm the character of the countryside, and would not in any event be visible from outside the application site.

## **Access and Highway Safety**

23. The Oaks is served by an existing access off Meadow Road, with good visibility either side. Meadow Road is a lightly trafficked highway, servicing existing properties and farm, and is not a through road. There is sufficient space within the site for vehicles to enter and leave in a forward gear.
24. The development of this site for an additional dwelling would not therefore prejudice highway safety, not place additional pressures upon the local highway network. The application is therefore considered to be consistent with the implementation of Policies TR/1 and TR/2 of the South Cambridgeshire District Council LDF Development Control Policies DPD July 2007.

### **Design Considerations**

25. As described, the single storey chalet structure has timber clad walls, a number of doors and windows with a shallow pitched tile clad roof with an eaves overhang. Whilst the building is domestic in appearance, it does not appear out of context in this rural location, mainly due to its siting close to the substantial boundary hedge to the southern side of the site with Meadow Road.
26. If planning permission is granted for the retention of the use of this building as a dwelling, it is the intention to withdraw permitted development rights for extensions and alterations to the building, in order for the Local Planning Authority to retain control of the built form, in the interests of visual amenity locally. The design of the building is compatible with its location and therefore considered to be consistent with the implementation of Policy DP/2(1) (f) and HG/8 of the South Cambridgeshire District Council LDF Development Control Policies DPD July 2007.

### **Landscape and Visual Amenity**

27. The Adopted District Design Guide Supplementary Planning Document places Willingham parish within the fen edge landscape character area, a mostly flat low lying landscape with open views. Further, it can be seen that scatterings of clumps of trees, shelterbelts and occasional hedgerows sometimes merge together to give the sense of a densely treed horizon.
28. In reporting the appeal decision at the site in August 2016, the Inspector advised that.....*the site is an area of countryside near to Willingham village characterised by a flat landscape of small fields (relative to their fenland context) separated by hedgerows with trees and ditches. There are areas of disturbance and some neglect, as seen on land to the east of The Oaks. I found that on Meadow Road and Spong (sic.)Drove views across the countryside are interrupted by boundary vegetation. Open panoramas, level horizons and large skies are not dominant.*
29. The retention of the chalet building for the use as a dwelling would therefore not have an unacceptable adverse impact on village character, on the surrounding countryside and landscape character, and therefore does not offend policy DP/3(2)(m). The distinctiveness of the landscape character area would be retained in accordance with adopted policy NE/4.

### **Flood Risk and Drainage**

30. Section 100 of the NPPF seeks to meet the challenge of climate change, flooding and coastal change. Paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing

flood risk elsewhere. Moreover, Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by, amongst other things, applying the Sequential Test, and if necessary, the Exception Test.

31. Policy NE/11 of the adopted Local Development Framework Development Control Policies DPD states that in relation to flood risk, applications will be judged against national policy.
32. Policy CC/9 of the emerging Local Plan states that in order to minimise flood risk, development will only be permitted where, amongst other things, the sequential test and exception tests established by the National Planning Policy Framework demonstrate the development is acceptable.
33. The application site is located in Flood Zone 1 and is therefore not at risk from flooding.

### **Conclusion**

34. Evidence submitted by the applicant is that the building was substantially complete and occupied as a dwelling at or around July 2009. In August 2016, a Certificate of Lawful Use was granted at appeal for the carrying out of development by the erection of a building, but not its use as a dwelling, as the use as a dwelling house would not become lawful until after the passage of 10 years continuous residential use; the test for the erection of a building is 4 years.
35. The lawful existing building does not materially impact upon the landscape character of the area, nor introduce highway safety concerns; the application site is not within Flood Zone 2 or 3. It is the opinion that the Local Planning Authority should APPROVE the application, subject to an occupancy tie to the use of the land at the Oaks, and conditions removing any permitted development rights to extend or alter the building.

### **Recommendation**

36. Approve, subject to:

### **Conditions**

- (i) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Location Plan received 14<sup>th</sup> January 2016
  - Floor Plans and Elevations received 14<sup>th</sup> January 2016
  - Supporting Statements received 14<sup>th</sup> January 2016
  - Photographs received 14<sup>th</sup> January 2016(Reason – For the avoidance of doubt and to allow the Local Planning Authority to retain control of the development in the interests of the amenity of the countryside.)
- (ii) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Classes A - E of Part 1 of Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.

(Reason - In the interests of the visual amenities of the countryside accordance with Policy DP/2 of the adopted Local Development Framework 2007.)

- (iii) The occupation of the dwelling, hereby permitted, shall be limited to a person or persons solely or mainly working or last working, in the locality in an equestrian business, or a widow or widower of such a person and any residents dependants.

(Reason - The dwelling is situated in a rural area outside any established settlement where the Local Planning Authority would not normally grant permission for such development and this permission is granted solely in order to fulfil a need to satisfy the requirement of Local Development Framework Policy HG/8 & HG/9 adopted 2007, and given the lawful use of the building.)

### **Background Papers:**

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.

- National Planning Policy Framework 2012 (the Framework)  
Planning Policy for Traveller Sites 2015 (PPTS)
- 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 (SPD's)
- South Cambridgeshire Local Plan Submission 2014

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