

**UTT/0808/11/FUL (Great Canfield)**

*(Referred to Committee by Cllr Cheetham. Reason: Local concern).*

**PROPOSAL:** Proposed continued use of long stay caravan pitch for the use of one gypsy family. (Not subject to condition C.13.4 UTT/0998/08/FUL "The mobile home and touring caravan hereby permitted shall be occupied only be Mr T Boswell and Ms A Fuller and when they cease permanent occupation they shall be removed from the site within 2 weeks of this event and the land shall be restored to its former condition within 1 month in accordance with a scheme of work submitted to and approved by the local planning authority in writing").

**LOCATION:** Tandans, Canfield Drive, Canfield Road, Great Canfield.

**APPLICANT:** Mr & Mrs Boswell

**AGENT:** Mr R Perrin

**GRID REFERENCE:** TL 573-209

**EXPIRY DATE:** 27.7.2011

**CASE OFFICER:** Joe Mitson

**APPLICATION TYPE:** Minor

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**1. NOTATION**

1.1 Beyond Development Limits.

**2. DESCRIPTION OF SITE**

2.1 The site comprises a plot accommodating a mobile home accessed off a narrow highway with dwellings to both sides and on the northern side of Canfield Drive. The character of the area is of low density sporadic development. The committee visited the site at the time of the 2008 application.

**3. PROPOSAL**

3.1 The application seeks full planning permission for a long stay caravan pitch for the use of one gypsy family single. In 2008 UTT/0998/08/FUL granted planning permission for the site to be used as a long stay caravan pitch for one gypsy family. Condition 3 of that permission stated:

"The mobile home and touring caravan hereby permitted shall be occupied only by Mr T Boswell and Ms A Fuller and when they cease permanent occupation they shall be removed from the site within 2 weeks of this event and the land shall be restored to its former condition within 1 month in accordance with a scheme of work submitted to and approved by the local planning authority in writing.

REASON: The site is outside any area where new residential development would normally be permitted, and permission is granted on the personal circumstances of the applicants."

3.2 The committee is asked to note that this is not an application to remove a planning condition from an existing permission (as an application under S73) but for a new

permission which the applicant wishes not to be subject to a personal restriction. The applicant suggests that if permission is granted it be limited to occupation by a gypsy family.

#### **4. APPLICANT'S CASE**

- 4.1 The application seeks to achieve a new permission which would not be subject to the present condition which ties its duration to the occupancy of Mr Boswell and Ms Fuller but subject to a replacement condition which would enable the site to be occupied by any gypsy family. The applicants has no immediate plans to move or sell but are concerned for their long term well being and that of their family. Their daughter lives in rented accommodation in Takeley and in the future is likely to look after the occupants of the site in addition to having the grandchildren staying with them. The present condition prevents their daughter and grandchildren living with them, denies them the prospect of leaving the site to another family or of raising money should they need.
- 4.2 There are serious drawbacks with the condition and is an infringement of 11/95 [national policy on the use of planning conditions] which advises any condition which would put a severe limitation on the freedom of owners to dispose of their property should be avoided. The reason for the condition was that the site is outside any area where new residential development would normally be permitted and it was the personal circumstances that justified the permission.
- 4.3 The site justifies permission as a gypsy caravan site for a single family. Gypsy caravan sites are invariably outside conventional residential areas and where a specific regime of guidance applies. As such exceptional circumstances are inherent in the granting of such permissions. It does not take personal circumstances to override the fact that a site may be outside an area where new residential development would normally be permitted. A site formerly owned by the applicants was subject to a personal condition and was lifted on appeal. The decision shows that where criteria for site identification are met there is no need for a personal permission.
- 4.4 Circular 1/2006 states that sites on the outskirts of built up areas may be appropriate for gypsy sites and in assessing such suitability Council's should be realistic about availability. The present site clearly accords with the guidance set out; the location is close to a settlement which has services including a school and shops. Canfield Drive already serves several houses standing in large grounds, the remaining land is in use as paddocks and there are no long term views of the countryside. Access can be provided and the site is within comfortable walking distance of public transport.
- 4.5 The imposition of the personal condition is unnecessary and unduly onerous. A condition stating that the site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of Circular 01/2006 would be acceptable to the applicants.

#### **5. RELEVANT SITE HISTORY**

- 5.1 UTT/0520/10/OP refused permission for the erection of four dwellings on the site. Other applications for permanent dwellings have also been refused.
- 5.2 UTT/0998/08/FUL permission granted for long stay caravan pitch for one gypsy family. This was granted subject to conditions on the following matters:
- Commencement of development within three years
  - To be carried out in accordance with approved plans
  - Occupation limited to Mr Boswell and Ms A Fuller (see full text of condition in section 3 'Proposal' above
  - Removal of permitted development rights
  - No business involving outside storage
  - No floodlighting

- Submission and implementation of landscaping scheme
- Retention of hedge marked A-B-C-D-E-F
- Details of foul and surface water drainage
- Details of proposed boundaries to curtilage

## **6. POLICIES**

### 6.1 National Policies

PPS1 - Delivering Sustainable Development.  
 PPS3 - Housing.  
 PPS7 - Sustainable Development in Rural Areas.  
 Circular 1/06 - Planning for Gypsy and Traveller Caravan Sites.

### 6.2 East of England Plan 2006

ENV7 - Quality in the Built Environment.  
 Policy H3 - Provision for Gypsies and Travellers.

### 6.3 Essex Replacement Structure Plan 2001

No policies relevant.

### 6.4 Uttlesford District Local Plan 2005

Policy GEN2 - Design.  
 Policy GEN4 - Amenity.  
 Policy S7 - The Countryside.

## **7. PARISH/TOWN COUNCIL COMMENTS**

7.1 To be reported (Due 6 July)

## **8. CONSULTATIONS**

8.1 ECC Archaeology has no objections.

8.2 UDC Planning Policy Team. No objections. In terms of gypsy site provision within the district this single pitch makes only a limited contribution but it is an authorised pitch which counts towards the overall provision. In policy terms the change of the condition to limit the use to one family rather than the named users would make the site more flexible.

8.3 ECC Gypsy and Travellers Services: Has made no comments.

8.4 UDC Environmental Health raises no objections but states a caravan licence would be required.

## **9. REPRESENTATIONS**

9.1 Neighbour notification period expired 5th July 2011. Four letters received objecting on the grounds that the original conditions were not approved by the Parish Council, many people voted against the proposal, there have been no changes in circumstances to justify any change in this condition, the proposal is against the reason for imposing the condition, there has been a further attempt by the applicant to build houses on the site demonstrating the long term plan, it was believed the site was temporary, questions how many people would be considered under the definition of one family, it will be a shame if permission is granted as the land will never return to its original condition.

## **10. APPRAISAL**

- 10.1 The issue to consider in the determination of the application is:
- A** The principle of the development (ULP Policies S7, OPDM Circular 1/06 – Planning for Gypsy and Traveller caravan sites).
- 10.2 The site lies beyond the development limit and, prior to the occupation of the site by the applicants, was an undeveloped parcel of land. In accordance with Policy S7 development is not normally permitted on such sites. However as recognised in 2008 at the time of the previous application, national policy in OPDM Circular 1/06 – Planning for Gypsy and Traveller caravan sites – states that there is an under provision of sites nationally and within Uttlesford.
- 10.3 The Circular looks at ways of addressing this shortfall. It looks at rural areas and adopts a sequential approach to considering sites, steering pitches away from the greenbelt and land with nationally recognised designations (for example Green Belt, Sites of Special Scientific Interest, National Nature Reserves, National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts, Scheduled Monuments, Conservation Areas, Registered Historic Battlefields and Registered Parks and Gardens). This site lies in none of those areas. It continues: *"Sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on the local infrastructure."*
- 10.4 As set out above national policy has determined that this site is acceptable in principle. The site is discrete, has boundary screening and one gypsy pitch would not place undue pressure on local infrastructure.
- 10.5 The Regional Plan identified a shortfall in the provision of gypsy pitches in this District. While the Regional Plan is predicted to be repealed by the enactment of the Localism Bill it currently remains part of the Development Plan and the Council does not have an alternative figure of gypsy pitch need and therefore it must be accepted that it cannot demonstrate appropriate provision. There is an analogy here with five year supply of housing land. That there is a short fall and that this site would make a contribution to meeting that shortfall has not changed since the last application and weighs in favour of the application. The site was deemed acceptable for use to accommodate a gypsy family in terms of its location relatively close to Takeley and having an unobtrusive impact on the character and appearance of the locality. This remains the case.
- 10.6 The extant permission was granted subject to a personal occupancy condition (produced in full in section 3 'Proposal' above). This permits the site to be occupied by the current owners for an indefinite period and there is no prospect of this ceasing. Neither national policy on the use of planning conditions or on gypsy development advises the use of personal permissions for this type of development. Permitting the application without the personal condition would allow the site to continue to be used in a similar manner but would allow other family members of the current occupier or a different gypsy or traveller family, to live on the site. Until such time as the Council has addressed the under provision of sites it is likely that an application for occupation of the site by another gypsy family when the Boswells leave would be successful. The broadening of the scope of the approval in this way would not have a harmful impact on the visual or residential amenity of the site or surroundings and would allow the plot to contribute permanently to the district wide shortfall. A replacement condition, limiting use of the site to occupation by a single family, would still control the use of the site but without the current personal restriction.

10.7 The committee might be aware that the Government has recently consulted on a draft Planning Policy Statement on Traveller sites which will eventually replace Circular 1/06. This would require local planning authorities to identify a five year supply of sites. This is work which will be carried out in the future and to date there is still a shortfall of sites compared to the regional target and the Essex Gypsy and Traveller Accommodation Assessment.

10.8 The applicant points out that the condition prevents his daughter and grandchildren from living on the site, denies them the prospect of leaving the site to another gypsy family or raising finance on the back of the approved use of the land, should that be necessary.

10.9 In the context of the above officers recommend that the proposal is acceptable without a personal occupancy condition.

## **11. CONCLUSION**

11.1 The following is a summary of the main reasons for the recommendation:

11.2 The Council cannot demonstrate that it has sufficient provision of gypsy pitches and this would be an appropriate site and makes a contribution to meeting this provision. It is considered that permission should be granted for the site without the personal condition but with a single family occupation condition.

## **RECOMMENDATION –CONDITIONAL APPROVAL**

Conditions:

1 The development hereby permitted shall be implemented in all respects strictly in accordance with the approved plans listed in the schedule of plans printed on this Decision Notice, unless agreed in writing by the local planning authority.

REASON: To ensure the scheme will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority

2 Occupancy

This site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 1/2006.

REASON: To ensure the use of the site remains compatible with the surroundings and in the interests of the residential amenity of occupiers of neighbouring dwellings.

3 No more than one mobile home and one touring caravan shall be on the site at any time. Collectively these shall not be occupied other than by a single household.

Reason: To avoid the proliferation of mobile homes and or caravans which may adversely affect the character of the area. Furthermore the application was made and considered on the basis of being for a single family.

4 Permitted Development Rights

Reason:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order with or without modification) no development within classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

REASON: To avoid the proliferation of buildings, fencing and other means or enclosure at the site, in the interests of protecting the visual amenities of this rural site.

No business operation involving outside storage or storage of vehicles or machinery shall take place on any part of the application site.

REASON: In the interests of the appearance of the site and the amenity of surrounding residents.

#### 65 No Floodlighting

There shall be no floodlighting or other form of external lighting constructed within the application site without the prior written consent of the local planning authority. REASON: To ensure the development does not adversely affect the rural character of the area.

#### 7 Landscape Maintenance

Any plants forming the landscaping scheme, approved under UTT/0998/08/FUL, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development.

#### 8 Hedge Retention

The hedges marked A-B-C-D-E-F on the attached 1:500 scale plan shall be retained unless the local planning authority gives its written consent to its removal or variation. Should any part of the hedge die, be removed or become seriously damaged or diseased, it shall be replaced during the following planting season by a hedge planted in accordance with a specification previously approved in writing by the local planning authority.

REASON: In order to maintain the rural character and appearance of the site, in the interests of visual amenity.

#### 9 Treatment Plant

The approved treatment plant shall be maintained in accordance with the manufacturers recommendations.

REASON: To protect the surrounding countryside and prevent pollution of the water environment.

#### 10 Surface Water Disposal

The approved surface water disposal arrangements shall be maintained as approved.

REASON: To control the risk of flooding to the development and adjoining land.

11 The approved division between the curtilage and the remainder of the site shall be retained in perpetuity.

REASON: To protect the rural character and appearance of the site and that of the locality.



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DATE:14/07/2011

MAP REFERENCE:TL5720NW

SCALE:1:1250