

Item No. 7**SCHEDULE A**

APPLICATION NUMBER	CB/10/01349/FULL
LOCATION	Land Adjacent, To 17, The Causeway, Clophill
PROPOSAL	Full: Change of Use to a Gypsy Site, 1 static caravan, 1 towing caravan, parking for two vehicles and 1 serviced portaloo. (Part Retrospective)
PARISH	Clophill
WARD	Maulden and Clophill
WARD COUNCILLORS	Cllr A Barker & Cllr H Lockey
CASE OFFICER	Sarah Fortune
DATE REGISTERED	12 May 2010
EXPIRY DATE	07 July 2010
APPLICANT	Mrs J Terry
AGENT	Bucks Floating Support
REASON FOR COMMITTEE TO DETERMINE	Cllr Angela Barker request due to site's location beyond Settlement Envelope. The Assistant Director also considers it prudent due to the level of interest in the application
RECOMMENDED DECISION	Full Application - Refused

Site Location:

The site is located on the east side of The Causeway on the edge of the village of Clophill. It comprises of a roughly rectangular shaped area of agricultural land which is set back from the road by about 40 metres and accessed along a privately owned driveway- which has been named as Paradise Drive.

The Application:

This application is for the retrospective change of use of the land for the siting of one static caravan, 1 touring caravan, parking for two vehicles as well as a portaloo, for the occupation of a family from the Romani Gypsy community. There is a ribbon of housing development to the north and open agricultural land at Paradise Farm to the south.

RELEVANT POLICIES:**National Policies (PPG & PPS)**

PPS1	Delivering Sustainable development
PPS3	Housing
ODPM Circular 01/0206	

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)**Bedfordshire Structure Plan 2011**

Core Strategy and Development Management Policy Document dated November 2009.

- CS1 Settlement Hierarchy
- DM3 High Quality development
- DM4 Development within and beyond settlement envelopes.
- DM15 Biodiversity

Supplementary Planning Guidance

Gypsy and Traveller DPD

Planning History - relevant

11/95/01588 Demolition of part of existing store and erection of single storey building for washing and WC facility.
Granted: 23/02/1996

Representations: (Parish & Neighbours)

Clophill Parish Council Objects:

Outside the Settlement Envelope and there are no exceptional reason for approval being given, the site is in the Flood Plain and the land does often flood. Several layers of hard core have been deposited on the whole site presumably to raise its level and to avoid flooding and this hardcore extends to the top of the immediate river bank. This prevents natural drainage to the river from the area which regularly floods. Vegetation has been removed and rubble laid on the river bank spilling improperly into the river and polluting it, development is within 7 metres of river bank, the fence on the bank top will prevent access to the river and its banks, the locked access gate makes access for emergency vehicles very difficult, the land was previously used for agricultural purposes, the site address should refer to Paradise Farm, several layers of hard core have been laid across the whole site and rubble used to build up the river banks and this could be contaminated, concerned about the disposal of domestic waste liquids, the site is a County Wildlife one and policies in the Core Strategy oppose development other than that which facilities access and management etc.. The river bank has previously been the home of Kingfishers. The improper clearance of the vegetation on the river bank has had an adverse effect on Kingfishers and wildlife resulting in their disappearance.

The access to the site is not acceptable in that both the High Street and the A507 are poor junctions. Noise from the generator impacts adversely on the neighbours, Central Beds Council is taking Enforcement action in

respect of a similar site in Clophill, the whole of the application site is retrospective.

Request that the application be called in to Planning Committee.

Comments received in response to the FRA and to the Statement in Support of the Planning application.

The FRA is biased, misleading and not a neutral document. It is not an objective survey. It needs to be taken throughout the year and especially in the wet seasons. There is anecdotal evidence from local residents that the site floods regularly. The land is not previously developed but was in agricultural use. The several layers of hard/gravel base have been laid by the applicant. The bank of the river has been illegally built up thereby hampering the natural lateral drainage of the flood plain. There has been further excavation work and pipe laying since the completion of the FRA.

There are many inaccuracies in the Statement of Support of the Planning Application. The site is and has been an integral part of Paradise Farm. There is a history of misuse of the site. The applicant started clearing the site some months ago. The applicant has now got connection to the village sewerage system. The fencing and caravans are site within the 7 metres of the river in contravention to the IDB's bye-laws. Damage to the site has already been done by the applicant in the carrying out of illegal works. These works are visually damaging and increase the flood risk, the site is in the central of the Flood Zone.

Neighbours

75 Letters of objection from residents in Clophill and Silsoe:

Strongly against, it would be disastrous, the land is agricultural and not designated for residential use, we have more than enough housing, the site is close to the river and is prone to flooding, damaging effect on wildlife, outside of the village Settlement Envelope, it will set a precedent for other sites of development in the village, the metal gate to the front of the site is not in keeping, where will grey water from the site go, damaging effect on bio diversity in the area and further down the river, strain on the school services, access onto the main road is dangerous, the Kingfisher family appear to have gone, strongly urge the council to do anything it can to stop this development, there are much better sites in the village for such development, it would be better to grant planning permission for novel flood resistant homes, it is very unhelpful that the application is retrospective, concern that

there will be more such developments on the adjoining land, are the drainage systems adequate, increase in noise, if allowed it will undermine conservation restrictions in the village, the new hardsurfacing will increase the risk of flooding, the site should be called land adjacent to Paradise Farm and not adjacent to 17 The Causeway, both sides of The Causeway regularly flood, the development contravenes the IDB's bylaws, three other sites for Gypsy development have been refused at the beginning of 2010, much work was undertaken on the site prior to its occupation - such as fences, hard standing, gates, lights etc.. illegal to disturb the nesting ground of Kingfishers, do the portaloos come under the Land Drainage Act 1994, the IDB need access to the bank of the river, who is to be responsible for the upkeep of the access track, will the residents of the site pay community charge the same as Clophill parishioners, will their rubbish be disposed of - will it be burnt on the site, the development is out of keeping with the area, loss of privacy by way of noise from generator (this has now been removed from the site), the council should have made available sites for travellers, the site has always been agricultural and not used for parking and storage.

Further 12 letters of objection in respect of FRA and the Statement in Support of the Planning Application:

the site is not suitable for this use, improper change of use of the land, it is in the centre of the flood plain, it is outside of the Settlement Envelope, adverse impact on the sites biodiversity, the site floods, there is significant hardstanding introduced at the site, it was not previously developed land but agricultural land, inaccuracies in the FRA statement, how are the children going to attend schools if they are part of the travelling community, there is no such road as Paradise Drive, the fact that the land has been raised and hardcored means that it is likely to cause flooding rather than be the victim of it, the stated Chair of the Gypsy Council should be verified by Central Beds Council. If this is allowed it will open the flood gates for similar applications. The site should not be called 'adjacent to 17 The Causeway...!', static and touring caravans will be vulnerable if the site floods, fencing has been erected to close to the river, the site was raised by hardcore before the travellers came to the site, the development does not provide wider sustainable benefits to the community that outweigh the flood risk, the proposed fencing and hardstanding installed will cause alteration to the flood flow, the proposal is an attempt to bluff and con the Planning department, the planning agents for the FRA are not qualified to produce the FRA and the content of the report is negligent, shrubs, trees and wildflowers have been removed by the applicant, the

laying of hardcore and the tarmac and fencing all contravene strict By Laws, where is the level survey, the gates are industrial style metal ones and not in keeping with the street scene of The Causeway and where is the permission for connection to the main sewer?

App Adv

Consultations/Publicity responses

Highways Officer No objections subject to conditions regarding surfacing of the access drive.

E.A. No objection but recommend that the Beds and River Ivel IDB are consulted as the site lies wholly in the Floodplain Zone 3 of an IDB designated Main Drain.

A.W.S.L. No obs received

I.D.B. Objects: Site is in the Flood Plain of the River Hit in an area that is known to flood, there is no Flood Risk Assessment, the site is within 7 metres of the bank top and consent of IDB is required. Storm water can not be discharged to the adjacent water course as proposed as this water course can be overloaded during the winter months.

Further comments:

The site is in Flood Zone 3 - not Flood Zone 2 as claimed by the applicant's agent. Still object to the application having looked at the FRA.

Confirm floatation devices for use in periods of flooding not appropriate for permanent occupation, though may be considered acceptable for leisure uses where periods of greater flood risk tend to be out of season.

Clophill Conservation Objects: Outside the village settlement envelope, visually Group intrusive and not in keeping with the character of Clophill and the setting of the Conservation Area, is within 7 metres of the bank of watercourse, is in a Flood Plain, the development is contrary to Green Infrastructure policies, would set a precedent for other sites to be developed if allowed.

Further comments received in response to the FRA and the Statement in Support of the Planning Application.

Dispute the accuracy of many of the comments in the FRA and the Statement. Previous objections still stand.

The land is agricultural and outside of the Settlement Envelope and the FRA has not been produced by an unbiased person. The hardstanding works were undertaken by the applicant.

Wildlife Trust	No obs received.
Housing (private Sector)	The Site must be licensed under the Caravan and Site Control of development Act 1960.
E.H.O.	No comments
Ecologist	The site falls within the Flit Valley County Wildlife Site and being adjacent to the river will have a detrimental impact on the bio diversity of the site. Kingfishers appear to have been lost from the site. Policy CS18 of the Core Strategy and Development Management Policy document states that development that would fragment or prejudice the biodiversity network will not be permitted. No mention is made of suggested mitigation to provide beneficial habitat management. Suggest that there be an 8m (min) buffer to the river to protect the riparian habitat. The introduction of a shingled area and static caravan etc.. results in the loss of grassland habitat and thus the areas value to wildlife.

Determining Issues

The main considerations of the application are;

1. Background and Principle of development
2. Impact on the visual amenities of area
3. Impact on amenities of neighbours
4. Highways and parking
5. Other Matters
6. Conclusions

Considerations

1. Background and Principle of development

The site lies outside of the Settlement Envelope for Clophill within the open countryside where there is a general presumption against the granting of planning permission for new development - including mobile homes - unless there is a very exceptional need identified - or exceptional circumstances.

In this case the application is in respect of a static and a touring caravan and associated portaloo and the occupants of these ie the - applicant and his family - are Gypsies and persons of nomadic habit of life - as defined by the Caravan Sites (Development and Control) Act 1960 and ODPM Circular 1/2006. They are members of the Traveller community who maintain a travelling life style sufficient to maintain their culture. A letter from the Gypsy Council dated

23/07/2010 verifies that they are part of a well known Romani family with many links across the eastern Region of England and beyond. (It is understood that the Gypsy family who originally lived on this site and submitted this application have now sold the land to a further Gypsy family - but this does not make any difference to the way which the planning application is considered by this authority, particularly since it has been shown that the new residents take the same status.)

Circular 01/2006 is specifically designed to provide guidance on determining Gypsy applications with the intention of increasing the number of sites. One of the main aims of this circular is for Local Authorities and Gypsies and Travellers to work together and increase the number of sites made available in the next few years. The Circular also recognises the importance of the extended family to the Gypsy and Traveller way of life.

As a result of that legislation and guidance Local Planning Authorities are required to carry out a full assessment of the need of Gypsies and Travellers in their area in liaison with neighbouring authorities to determine the need for sites and then to locate suitable land for the occupation of the gypsies who have no lawful base to occupy.

In this area the Bedfordshire and Luton Gypsy and Traveller Assessment 2007 (GTAA) has been completed and this indicates that an additional 74 pitches are needed in Bedfordshire as a whole by 2011 and that 20 of these should be in the area formerly known as Mid Beds. This figure was increased to 30 pitches in July 2009 after the Single Issue Review of the East of England Plan reviewed the needs assessments and pitch distribution in light of the caravan counts.

In Central Bedfordshire North the preferred Sites consultation on the Gypsy and Traveller DPD (looking to accommodate sufficient pitches to meet the regional plan target) was published for six weeks between April and June and the comments received to this consultation are being logged and summarised. Since this consultation was published the coalition government abolished regional pitch targets and the Council is considering how it moves forward with its DPD as a result. Following the usual process of discussing the matter with the Task Force and the Overview and Scrutiny Committee, the Council will put forward its recommendations to the Executive. The Overview and Scrutiny Committee next meets on 7 September and a report is then expected to progress to the Executive at its meeting on 28 September 2010.

This aside it is clear from the local GTAA that there is an obvious and immediate unmet need for pitches within the Mid Beds area and this must be given full weight in the consideration of the policy aspects of this application. A need for 20 pitches by 2011 had been identified in the local needs assessment. It should be noted that since that time 3 pitches have been approved through planning permissions.

Local Planning Authorities must give substantial weight to unmet needs when considering whether a temporary permission is justified. In an application for temporary permission - this application does not state that a temporary period is being requested - the relevant policy guidance is found in para 45 of Circular 01.06. This states that temporary permission should be granted where there is an unmet need but no alternative Gypsy and Traveller provision in the area and

where there is a reasonable expectation that new sites are likely to become available at the end of that period in an area which will meet that need.

Where new sites are to be allocated, Circular 01.2006 supports a sequential test by stating that in deciding where to provide Gypsy and Traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services, eg shops, doctors and schools. However, it is acknowledged that Gypsy and travellers have historically located themselves in countryside locations. The Circular (paragraph 54) says sites may be found in rural or semi rural areas. Rural areas which are not subject to special planning constraints can be acceptable in principle.

As with any other form of housing, well located sites, with easy access to major roads or public transport services, will have a positive effect on the ability of residents to: attend school, further education or training; have access to health services and shopping facilities; and seek or retain employment.

In view of the above it is clear that in planning policy terms the proposal should be supported on a temporary basis, pending a situation where there is no unmet need for additional pitches.

2. Impact on the visual amenities of the area.

The site lies at the edge of the built up area of the village just beyond the edge of the ribbon of housing development on both sides of The Causeway to the immediate north of the site. The land is generally open and attractive and the mobile home and the caravan can be seen from the road above the 2m high close boarded fence which runs around the entire boundary of the site (erected under permitted development rights) - apart from the wooden gates which serve as vehicular and pedestrian access into the site off the Private road which it shares with Paradise Farm - further to the east and south. The development is therefore fairly well concealed from view.

The previous applicants advised that when they took possession of the site there was a substantial amount of rubbish and debris which were removed - about 200 tons of mainly hardcore, tree cuttings, general rubbish and unwanted clay from other areas.

Within the site is a static caravan/trailer, a site for the parking of a mobile caravan, 2 parking spaces, a garden waste storage area, a bin and gas bottle storage area. Much of the central area of the site is covered with shingle and the surrounding area is generally grassed. There is a mature conifer hedgerow along the north boundary of the site.

3. Impact on amenities of neighbours

The nearest house to the site is 17 The Causeway and this lies about 20 metres to the north west. There is a tall mature conifer hedgerow along the boundary of the application site close to the boundary of 17 The Causeway. This hedge and the tall fence around the site mean that there is very little visual impact of the development at the site on the outlook of the nearest neighbours or the visual amenities of the area generally.

4. Highways and Parking

Access to the site is via the shared private Driveway off The Causeway - which serves Paradise Farm. Parking spaces are provided within the site for a minimum of 2 cars. The highways officer is of the view that the access to the site is substandard in its width and visibility provision at its junction with the High Street. However, in view of the fact that two dwellings have been allowed on appeal for land to the rear of 3 The Causeway - where there were no adverse highways comments - it is considered that it would be difficult for the application to be refused on highways grounds. However, the access serving the site is not surfaced and there are no proposals to surface it. It is therefore recommended that a condition be attached to any consent which requires details of the surfacing to be submitted for approval by this authority within 6 months of the date of the permission as well as a further condition regarding the area coloured blue on the plan being kept free for the turning of vehicles. There is plenty of car parking area within the site.

5. Other matters

The site lies in a Flood Plain - the IDB have advised that it is Flood Zone 3. A Flood Risk Assessment has been prepared and the IDB and others have been consulted upon it. PPG25 defines caravans and mobile homes for permanent occupation as Highly Vulnerable development, and advises that such uses should not be permitted in Flood Zone 3.

The IDB have advised that the site is in the Flood Plain of the River Flit an area that is known to flood. The site and the fencing is within the Board's byelaw distance of 7 metres from the bank top and any development in this area is subject to the Board's consent. This area must be kept free of all obstructions to ensure the board is able to carry out maintenance. There must be no direct discharge of unbalanced storm water to the adjacent water course as this water course can be overloaded during the winter months.

The applicant has had discussions with the IDB and taken professional advice and advises that they consider there are a range of potential solutions to address the concerns of the IDB. In particular a revised indicative layout plan has been submitted for the site which shows that the two caravans can be located outside of the seven metre zone and secondly that all fencing can be modified to facilitate the free flow of flood water. In view of the fact that the planning application is for a change of use of the land - and the layout is only indicative - it is considered that it would be acceptable to attach conditions to cover these two matters.

Also, the applicants advise that they will reserve a 2 metre work strip within the seven metre zone for use by the IDB - should the IDB need to carry out work next to the river. It is also proposed to install an access gate to the river to facilitate ease of access to the river bank and the 7 metre zone next to the river will only be used as a garden or for parking of vehicles.

The applicants advise that the caravans do not sit on the ground and feel that this matter has been overlooked. The static caravan can be as much as 24 inches off the ground or higher and they consider this would take it out of the flood risk if combined with other measures. These could include a proposal to

install flotation devices that would counter the potential hazards which could be caused by significant flooding. The system that is favoured is manufactured by Marche Industries and has apparently been accepted for use on other sites in Flood Zones across the country. According to the applicant as well as a letter from Marche Industries Ltd this system has been used in areas where significant floods have occurred and it has a proven track record. The floatation system involves the design, supply and installation of colour coded polystyrene pods fitted directly to the chassis of the unit. The polystyrene pods effectively convert the caravan into a 'boat' under flood conditions.

The Galvanized Cantilever System is installed to control the rise and fall of the unit. This is secured directly to the chassis and to the concrete base. For caravans without a concrete base Marche Industries recommend the Piston system which requires a piston to the front and rear of the caravan, concreted into the ground and connected to a sliding tow bar. All structures such as balconies/steps/sheds etc.. must be free standing and cannot be attached to the unit in any way.

The IDB has commented in response to these suggestions to confirm that though such provision may be suitable in a leisure park environment, where occupation is generally seasonal and less likely during periods of increased flood risk, such is not the case here. PPG25 places caravans and mobile homes intended for permanent use in the highly vulnerable category, and thus the IDB would not support such intervention as making this site suitable for occupation.

A level survey is being commissioned by the applicant to verify the level of the application site relation to the land at the rear of 3 The Causeway and the existing houses, as they believe the site should properly be considered as Flood Zone 2. Until this additional information has been submitted, it is not possible to comment on whether the survey makes due recognition for the placing of hardsurfacing on the site which has in any event raised levels, works which would of themselves potentially cause risk to others in a flood situation.

There are no trees on the site which are affected by the proposals. Local residents have advised that trees have already been removed from the site.

This council's ecologist has advised that the site lies in the Flit Valley County Wildlife Site. Policy CS18 of the Core Strategy and Development Management Policy Document states that development that would fragment or prejudice the biodiversity network will not be permitted. The application does not make any mention of any suggested mitigation to provide beneficial habitat management but that there should be a minimum of 8 metres of any development to the river to protect riparian habitat. The introduction of a shingled area and caravan resulted in the loss of grassland habitat and thus the areas value to wildlife. It must, however, be noted that the placing of the 2m fencing around the site and the clearance of existing vegetation were not works which required the specific grant of planning permission, so the protection of such areas is very tenuous.

There was a generator which was used as a temporary source of power for the site and lay to the east of the site on land in the ownership of the neighbouring land owner at Paradise Farm. This has now been removed as the site has been connected to mains electricity.

Water services run close to the site as does the access to the foul sewer pipes. Permission has been sought and obtained to connect the site to the main sewers. This has now been carried out and the applicant advises that the works have been checked and certified. Certificates regarding this are to be forwarded to this authority. Until this information is received, it is not known who the authorising bodies have been.

Conclusions

In view of the fact that this authority has not made provision for an adequate number of Gypsy and Traveller sites in its area and there is a clear unmet need for such sites then it would be difficult to sustain at appeal an objection to the application on policy grounds. It is thus considered that from this perspective a temporary consent should be granted until such time as these sites have been made available in accordance with an approved Site Allocations DPD for Gypsy and Traveller sites in Central Bedfordshire.

However, notwithstanding the above, there are drainage objections from the Internal Drainage Board and as a result of advice in PPG25 and these would need to be resolved before officers could recommend that such a temporary planning consent be granted.

Recommendation

That Planning Permission be refused.

- 1 The site is within the floodplain of the River Flit, an area that is known to flood and is classified as Flood Zone 3 as shown on the flood map held by the Internal Drainage Board. Caravans for permanent occupation are defined as being highly vulnerable to flooding and PPS25 advises that such development should not take place in Flood Zone 3.
- 2 The raising of ground levels impacts adversely on flood storage within the flood plain and the erection of close boarded fencing along the bank of the watercourse will restrict flood flows onto the flood plain. The direct discharge of unbalanced water to the adjacent water course is not acceptable as the water course can be overloaded during the winter months. These matters all have the potential to increase risks of flooding in the local area, and are therefore contrary to the aims of Policy DM3 (High Quality Development) in the Core Strategy and Development Management Policies November 2009.

DECISION

.....
.....