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Application Reference: CB/11/01301/Full

REPORT TO HATCH RESIDENTS

ANALYSIS OF PLANNING
APPLICATION AND ITS EFFECT
ON THE SURROUNDING AREA AT
WOODSIDE CARAVAN PARK,
HATCH, SANDY, BEDS SG19 1PT

1. INTRODUCTION

1.1 I have been instructed by Hatch residents to assess the effect of this planning application on the surrounding area and to prepare an assessment to enable appropriate representations to be made to Central Bedfordshire Council.

1.2 I am a fellow of the Royal Institution of Chartered Surveyors and a member of the Royal Town Planning Institute. My assessment of this planning application is based on my experience of a wide range of planning applications and, in this context, their acceptability in areas close to residential property where there is likely to be a significant change introduced by the development proposals.

2. THE PLANNING APPLICATION

2.1 This report relates to the planning application ref CB/11/01301/Full to change the use of land to use as a small private gipsy site for 3 families comprising of 10 caravans and associated ancillary development.

2.2 The planning application follows the previous grant of planning permission on appeal in 2006 and effectively seeks to make that temporary permission in to a permanent permission.

2.3 With regard to the effects of the planning application, I have assessed these in the context of the council's own Local Development Framework (LDF) policies which relate to gipsy and traveller (G&T) matters.

3. THE MAIN PLANNING ISSUES

3.1 The council has a long history of planning applications for this site. There have also been planning appeals and Judgements in the Court of Appeal relating to the site. I will not list all of the applications but I will refer to them where necessary.

Whilst the council has previously identified a range of policies I consider that there are additional relevant matters which should be taken into account when determining the application.

4. THE PREVIOUS APPLICATIONS

Appeal

4.1 A key point in the site history is the appeal of 6.11.06 allowed by the Secretary of State for Communities and Local Government (SoS) Ref: APP/J0215/A/03/1113088. Temporary permission was granted with a personal condition restricting it to the named occupants of the site. The previous appeals, while helpful, are not as significant in appraising the current application before the council. Consequently I have considered the aspects of the SoS appeal decision which are relevant to the current application.

4.2 In the SoS appeal decision of 6.11.06 the main issues were set out as:

- The character and appearance of the countryside
- The amenities of nearby residents
- Flood risk
- The achievement of policy objectives relating to the provision of sites for gypsies, including sustainability
- The fulfilment of a need for a further gipsy site in this location
- The fulfilment of a need arising from the personal circumstances of occupiers of the site, including their health and education needs.

Reasons for temporary permission

4.3 There were a number of factors weighing against the grant of permission set out by the SoS in her decision letter of 6.11.06. It has significant conflicts with the development plan. Section 54A of the Town and Country Planning Act

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1990 requires that the determination of a planning application should be in accordance with the development plan unless other material considerations indicate otherwise.

4.4 Temporary permission was granted because of the need for the council to assess the need for pitches across the district. Whether or not the temporary permission should in due course be followed by a permanent permission would depend upon the need and leading on from that the possible sites identified by the council.

4.5 The officer report to 22 June committee is misleading in section 2 in stating that the SoS accepted that three previous inspectors had considered that a small scale gipsy site would be acceptable in this location. Whilst this may be a matter of fact, the SoS did not accept that a small site in this location may be acceptable. The SoS went on to say that in this case the site is intrusive and the site is prominent, even in summer.

4.6 Council policy HO12 recognises that gipsy site caravans may be acceptable in the countryside, subject to local circumstances. In this case the landscaping proposals would go some way to ameliorating the effect of the development but they would not fully mitigate its visual impact and therefore the development would be in conflict with LP policy HO12.

4.7 This leads the officer report to conclude that although there is some impact it is not sufficient to justify refusing permission. But the SoS was of the view that the site was sufficiently intrusive to conflict with Policy HO12 which has now been adopted into the LDF. Therefore the SoS has already confirmed that this site is in conflict with the development plan.

Analysis of conditions

4.8 The permission specifically refers to a temporary planning permission for five years. This is not to be taken as indicating that a permanent permission

will necessarily follow. The council is making good progress with its assessment of sites and will have completed this exercise within 12 months. The officer report does not fully take this into account

4.9 The permission was also only granted because of the personal needs of Lydia Smith and Billy Price and educational needs although it is not clear how many children of school age now live on the site.

4.10 Condition 1 requires the raising of the surface level of the pitches above the 1 in 100 year flood level. This will make the site more prominent in the open countryside and this was acknowledged by the SoS in 2006. Therefore, if a permanent permission is granted, a condition will be needed to seek the raising of levels making the caravans more prominent on a permanent basis. On this point alone the site would not be suitable on a permanent basis because of its intrusion into the open countryside.

4.11 The issue of granting permanent permission therefore turns on the council's review of G&T site provision and the personal circumstances of the occupiers of the site.

Housing judgement

4.12 There are various Court of Appeal judgements relating to Woodside. In particular *Leanne Codona v. Mid-Beds District Council 2004 EWCA 925* related to the matter of rehousing occupants of an unauthorised plot adjacent to the application site. The judgement held that the Council was acting reasonably in offering alternative temporary accommodation in the form of bricks and mortar, although the family concerned had an aversion to this type of accommodation.

4.13 This indicates that the council should not be averse to offering temporary accommodation to the site occupants in the event of them having to wait for a

temporary period before relocating to a suitable pitch when the pitch review has been completed.

5. THE SITE REVIEW PROCESS

5.1 In considering additional sites for pitch provision, the Council is reviewing this through the LDF process. As part of the LDF, Development Plan Documents (DPD's) are adopted. One of these relates to Gypsies and Travellers. The role of this DPD is to identify the amount and location of G&T accommodation required in the area. In addition, the document will include criteria based policies against which Gypsy and Traveller associated development will be determined.

5.2 Without a Gypsy and Traveller DPD local authorities would find themselves in the unenviable position of having no robust planning framework with which to contest speculative planning applications or deal with illegal Gypsy and Traveller encampments. To avoid this situation Central Bedfordshire Council need to consider how best to move forward in light of the likely revocation of regional targets in planning for Gypsy and Traveller accommodation need.

5.3 regional targets are in a state of flux. The government has an explicit desire to abolish Regional Spatial Strategies (RSS). But at present they must still be taken into account by local authorities. The LDF report on Gypsy and Travellers (December 2010) states that Central Bedfordshire Council is firmly committed to making adequate site provision for Gypsies and Travellers. It is accepted that at a local level, Central Bedfordshire (North) needs to accommodate 27 additional new permanent Gypsy and Traveller pitches between 2006 and the end of 2015 to accommodate existing households within the area.

5.4 This DPD identifies sites to accommodate 23 pitches, which satisfies accommodation need until the end of 2013. An additional site search will be conducted in advance of the Examination to make proposals for the accommodation of the remaining 4 pitches required to the end of 2015.

5.5 Windfall applications for Gypsy and Traveller accommodation will be considered against GT3 and all relevant Development Management policies in the Core Strategy and Development Management Policies DPD. Between now and the adoption of the DPD, any windfall planning permissions granted for Gypsy and Traveller pitches in the North will contribute to the overall provision of need.

5.6 Policy GT1 states:

Policy GT1: Providing Permanent Gypsy and Traveller Pitches

The Council will make provision for 27 pitches to meet identified Gypsy and Traveller needs in Central Bedfordshire (North) up to the end of 2015.

All planning applications for Gypsy and Traveller sites will be considered against Policy GT3 and other relevant Development Management policies in the Core Strategy and Development Management Policies Development Plan Document.

5.7 Policy GT3 states:

Policy GT3: Gypsy and Traveller and Travelling

Showpeople sites

Sites for Gypsies and Travellers and Travelling Showpeople will be

granted planning permission providing that:

- Satisfactory evidence is submitted to justify local need for the scale and nature of the accommodation proposed;
- Satisfactory and safe vehicular access to and from the public highway is provided both to allow manoeuvrability of living accommodation to the site and the pitch, and to ensure the safety of other road users with the use of traffic calming measures where appropriate;
- Site layout, including the use of hard and soft landscaping, ensures that any detrimental impact upon the character and appearance of the locality is minimised, including impact on biodiversity and nature conservation;
- The amenity of nearby occupiers will not be unduly harmed by the development;
- Pollution from light and noise sources on the site are minimised and visual and acoustic privacy is maintained for both site residents and the occupiers of nearby land and property;
- Boundaries which may include fences, hedges and low walls are erected to provide clear demarcation of the perimeter of the site;
- The scale of the site and the number of pitches would not

dominate the nearest settled community and would not place undue pressure on local infrastructure;

- Adequate schools, shops and other community facilities are within reasonable travelling distance, preferably reached by foot, cycle or public transport;

- Surface water drainage and storm water drainage systems are installed with interceptors within the drainage system where appropriate;

- The site would not be located in an area at high risk of flooding, including functional floodplain; and

- The site is adequately serviced by electricity and water.

5.8 The findings of the accommodation needs for G&T pitches indicate that the 20 pitches that have already been secured almost meet the requirement for Central Bedfordshire council. It is not appropriate to grant planning permission for this application in advance of the conclusion of that study.

6. THE CONSULTATION PROCESS

6.1 The council has provided a minimal period for public consultation. The 21 day period encompassed the Easter period when some of the residents were on holiday and were therefore unable to respond in the time allocated. Furthermore, having instructed Paul Shelley Limited to assess the proposal I was unable to access the council website does not include all the documents associated with the application.

6.2 The shortcomings regarding the consultation are as follows:

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1. **Objection period:** The notification letter to residents was dated 12 April 2011. The period available for representations ran until 3 May 2011 but this included the Easter holiday period when some residents were away on vacation due to the associated school holiday period. This has disadvantaged the residents in having sufficient time to prepare their representations relating to the application.
2. **On Line application:** Some of the documents referred to in associated papers are not available on the council website, despite references to them. These are:
 - The full design and access statement accompanying the application – appendices are not available, i.e.:
 - Appendix 3- details of health needs
 - Appendix 5- photographs
 - Appendix 6- compliance with previous planning conditions
 - Appendix 7-Unauthorised encampment problems
 - Appendix 10-Travellers' childrens' access to education.
 - The full committee report for 22 June- the appendix referred to incorporating the appeal decision as referred to on page 32 of the report. (This has now been provided by the council on my request.)

6.3 In summary, the planning application is not being adequately displayed to enable the public and other parties to assess properly the proposals and establish their context in relation to previous permissions including various planning appeals. There are references in the Design and Access statement with the application to the various appeal decisions and comments therein which cannot be appraised because those documents have not been made available. The public have therefore been disenfranchised by the omission of key documents relating to the planning application.

7. APPEAL COSTS

7.1 The council may be concerned that the costs of pursuing any appeal against refusal of permission may be prohibitive and that this may be a factor in leading the officers towards recommending the grant of permission. But the likely future costs of enforcing the conditions of any future permission will also be likely to be high. This should not be a factor in coming to this decision.

8. REASONS FOR GRANTING PERMISSION (OFFICER REPORT)

8.1 The officer report has set out reasons for granting this application. The SoS has already said that the site has a detrimental effect on the countryside. It is incorrect to state that the DPD cannot meet the identified need for G&T sites. As set out above, the council is close to identifying the required number for 2015. It has identified sufficient for the present need.

8.2 The health and education needs can be met by the Oak Tree Nursery and Magpie Farm at Upper Caldecote because they are a similar distance from those facilities. This is an identified site for 3 pitches and therefore negates the statement at this part of the officer report.

8.3 The officer report also refers to other DPD policies. These are of a general nature and do not outweigh the G&T policy relating to pitch provision.

8.4 The policies referred to are as follows:

Policy CS14: High Quality Development

The Council will require development to be of the highest quality by:

- Respecting local context, the varied character and the local distinctiveness of Mid Bedfordshire's places, spaces and buildings in design and employs a range of urban design tools including urban design frameworks, design briefs and design codes to fulfil this undertaking;
- Focusing on the quality of buildings individually and collectively to create an attractive, accessible, mixed use public realm;
- Ensuring it is accessible to all; and
- Reducing the opportunities for crime and anti-social behaviour and enhancing community safety

Comment: the current proposal conflicts with points 1,2 and 3 of this policy.

Policy DM3: High Quality Development

All proposals for new development, including extensions will:

- be appropriate in scale and design to their setting.
- contribute positively to creating a sense of place and respect local distinctiveness through design and use of materials.
- use land efficiently.
- use energy efficiently.
- respect the amenity of surrounding properties.
- enhance community safety.
- comply with the current guidance on noise, waste management, vibration, odour, water, light and airborne pollution.
- incorporate appropriate access and linkages, including provision for pedestrians, cyclists and public transport.
- provide adequate areas for parking and servicing.
- provide hard and soft landscaping appropriate in scale and design to the development and its setting.
- incorporate public art in line with the thresholds determined by the Planning Obligations Strategy.
- ensure that public buildings are accessible for all, and comply with current guidance on accessibility to other buildings
- respect and complement the context and setting of all historically sensitive sites particularly those that are designated.

Comment: The proposal conflicts with points 1,2,3,4,5,8,9 of this policy.

Policy DM4: Development Within and Beyond Settlement Envelopes

Within Settlement Envelopes, the Council will support schemes for community, education, health, sports and recreation uses or mixed community and other uses where a need for such facilities is identified through the Infrastructure Audit or up to date evidence. Where no land is available within the settlement, a site adjacent to the settlement may be granted planning permission. Such development should make the best use of available land and lead to more sustainable communities.

Within the Settlement Envelopes of both Major and Minor Service Centres, the Council will approve housing, employment and other settlement related development commensurate with the scale of the settlement, taking account of its role as a local service centre.

Within Settlement Envelopes in Large Villages, small-scale housing and employment uses, together with new retail and service facilities to serve the village and its catchment will be permitted.

Within Settlement Envelopes in Small Villages, development will be limited to infill residential development and small-scale employment uses.

Beyond Settlement Envelopes, limited extensions to gardens will be permitted provided they do not harm the character of the area. They must be suitably

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landscaped or screened from the surrounding countryside and buildings may not be erected on the extended garden area.

Comment: Woodside Caravan Park is outside any village envelope and therefore the only specific element of the policy DM4 which relates to this location relates to limited extensions to gardens. This is not relevant to the current application.

9. GOVERNMENT POLICY CHANGES

9.1 The government is currently consulting on proposed changes to Gipsy and Traveller policy (Planning for Traveller Sites). The close for comments is 6 July 2011. This is not yet government policy but it shows the direction of likely changes. The intention is to cancel the existing circulars and replace with a single planning policy statement (PPS).

9.2 It would be folly for the council to now grant planning permission for the permanent retention of this site in advance of the outcome of the consultation process and the likely new PPS. Both of these documents are likely to demonstrate that the council has made adequate provision through its DPD process.

10. CONCLUSIONS

10.1 Having examined the committee report for 22.6.11 in the light of national and local policies and the planning history, there is no justification for the council now granting planning permission for the retention of this site. There is a long planning history. The most recent (2006) set out a clear reason for granting a 5 year temporary permission;

1. To enable the council to review its site provision;
2. To provide for the personal circumstances of the site occupiers.

10.2 The SoS acknowledged that the site failed as a suitable G&T site on a number of counts. This is now being ignored by the officers who recommend granting

planning permission. In effect they are contradicting the findings of the SoS in her 2006 decision.

10.3 The site is unduly prominent in the open countryside. Raising the base level of the pitches to avoid flooding will make them more prominent.

10.4 The personal circumstances only relate to two of the site's occupants.

10.5 The council has nearly completed its site search and review for pitches across the district.

10.6 National policy is about to change.

10.7 It seems perverse that the council now propose to grant permission at a moment when planning for gipsy sites is at a turning point , both in terms of local provision and national policy, particularly when there are no clear cut merits for this site.