

AGENDA ITEM NO. 8/1(c)

Parish:	Upwell	
Proposal:	Change of use to 4 no. additional Traveller pitches including 4 no. mobile homes, 4 no. touring caravans, 2 no. septic tanks, hardstanding and associated works	
Location:	Land And Buildings On The South Side of Small Lode Upwell Norfolk	
Applicant:	Mr M Stevens	
Case No:	19/00451/F (Full Application)	
Case Officer:	Mr K Wilkinson	Date for Determination: 11 June 2019 Extension of Time Expiry Date: 20 August 2021

Reason for Referral to Planning Committee – Officer recommendation is contrary to views of the Parish Council and at the instruction of the Planning Committee Sifting Panel (23 June 2021).

Neighbourhood Plan: Yes

Case Summary

The site is located in an area of 'countryside' on the southern side of Small Lode approximately 760m east of the defined village development area (Lode Avenue).

The site comprises 0.18 Ha of redundant agricultural land. There are two houses – No.204 to the north and No.200 to the west, with an eleven pitch Gypsy & Traveller (G&T) site beyond. To the south is a mobile home and east lies agricultural land. To the north of the access point on the opposite side of Small Lode there are two further G&T sites/pitches.

This current proposal seeks to create 4 similar sized pitches served off the existing access track which leads to the southern mobile home.

The site layout indicates the standing of a mobile home and touring caravan on each pitch, together with an area of hardstanding for parking of at least two vehicles.

The site lies mostly within Flood Zone 1 of the Council-adopted Strategic Flood Risk Assessment.

Key Issues

Principle of development
Need for pitches
Impact upon appearance of the countryside
Other material considerations

Recommendation

APPROVE

THE APPLICATION

The site is located in an area of 'countryside' on the southern side of Small Lode approximately 760m east of the defined village development area (Lode Avenue).

The site comprises 0.18 Ha of a parcel of redundant agricultural land. There are two houses – No.204 to the north and No.200 to the west, with an eleven pitch Gypsy & Traveller (G&T) site beyond. To the south is a residential mobile home and east lies agricultural land. To the north of the access point on the opposite side of Small Lode there are two further G&T sites/pitches.

This current proposal seeks to create 4 similar sized pitches served off the existing access track which leads to the southern mobile home.

The site layout indicates the standing of a mobile home and touring caravan on each pitch, together with an area of hardstanding for parking of at least two vehicles.

The site lies mostly within Flood Zone 1 of the Council-adopted Strategic Flood Risk Assessment.

The site is well screened by an established evergreen hedgerow to the east and mature planting to the rear garden of No.200 to the west, plus the house/No.204 to the north. Boundary treatments are shown as 2.0m high close-boarded timber fencing to the north and west boundaries, internal dividing 1.2m high close-boarded timber fences and 1.2m high post & rail fencing fronting the access track. A band of native tree and shrub planting is indicated inside the northern boundary fenceline.

Foul water is proposed to be disposed of via two septic tanks and surface water is proposed to be disposed of via soakaways.

The application is accompanied by a Planning Statement and Access Statement.

SUPPORTING CASE

The applicant's agent has raised the following statement in support of the application:

"The starting point for the consideration of this application is section 70(2) of the Town and Country Planning Act 1990 which states:

In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

Policy CS09 Housing Distribution sets out the Borough's Gypsy/Traveller-specific development plan policy and includes criteria against which new proposals should be assessed. These criteria are set out below, in italics, and are annotated where relevant with regards to the application site:

Sites for gypsies, travellers (or travelling show people) will be given permission where they:

- *are capable of being serviced by basic utilities;*

The site is capable of being connected to services

- *meet an identified need;*

The 2016 GTAA identifies an unmet need of between 5 to 40 pitches between 2016 and 2036.

- *avoid environmentally sensitive areas and areas at risk from flooding;*
The site falls within Flood Zone 1, and is not within or adjacent to any environmentally sensitive areas
- *afford good access to main routes (including the A47(T), A17, A10, A148/9 and A134);*
The site is located 5 miles, via the A1101, from the A47.
- *are located within a reasonable distance of facilities and supporting services (such as schools or health provision).*

The site is well located to local services and facilities:

Beaupre Community Primary School 1.4 miles

Upwell Health Centre 1.1 miles

North Cambs Hospital 7.3 miles

Upwell Post Office/General Store 1.1 miles

Costcutter 1.5 miles

St Peter's Church 1.0 mile

Church Bridge Bus Stop 1.0 mile

In summary, the application site accords with the criteria set out in the Local Plan. As such, permission should be granted without delay.

It is useful to note that a Gypsy/Traveller site across the road from the application site (reference no. 13/01545/F) was granted planning permission in December 2013, and was subject to assessment against the same criteria.

In this case, the site is an extension of the existing adjacent site which is well maintained and integrated into the local community. This point is borne out by a letter of support from a Fenland District Councillor.”

PLANNING HISTORY

None recent on application site

Adjoining site to south:

17/00143/LDE: Was Lawful: 29/03/17 - Lawful Development Certificate: Siting of a mobile which has been occupied for a period of more than 10 years (Delegated)

RESPONSE TO CONSULTATION

Upwell Parish Council: REFUSE - Upwell Parish Council recommends refusal to this application.

1) Government policy for travellers sites updated in 2015 states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites do not dominate the nearest settled community; the residents at 200/204 Small Lode would be surrounded on all sides by travellers sites and therefore completely dominated.

2) Concerns with surface water drainage affecting neighbouring properties.

Highways Authority: NO OBJECTION subject to conditions relating to construction of access to agreed standard, no gates bollards etc. and visibility in accordance with approved plans.

Middle Level Commissioners Drainage Board: No comments received.

District Emergency Planning Officer: NO OBJECTION recommends signing up to the Environment Agency's Flood Warning System and the preparation of a flood evacuation plan.

Environmental Health & Housing – Environmental Quality: NO OBJECTION

Environmental Health & Housing – CSNN: NO OBJECTION subject to conditions relating to boundary treatments, land drainage details and lighting scheme.

Natural England: NO COMMENTS – standing advice applies.

Housing Strategy Officer: NO OBJECTION

Housing Standards Officer: NO OBJECTION – requests informative note added to any permission regarding site licencing.

REPRESENTATIONS

TWO items of correspondence received raising concerns about surface water flooding of neighbouring garden (No.200).

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NEIGHBOURHOOD PLAN POLICIES

Environment & Nature Policy EN1: Flood Risk and Prevention

Environment & Nature Policy EN2: Agricultural land

Housing Policy H3: Design

Policy H4: Residential Car Parking Standards

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

PLANNING CONSIDERATIONS

In assessing this application the following key issues are identified:

Principle of development

Need for pitches

Impact upon appearance of the countryside

Other material considerations

Principle of development

There is no specific policy relating to Gypsy & Traveller (G&T) sites in the Upwell Neighbourhood Plan which is the most up-to-date policy document. Reference is however contained in Core Strategy Policy CS09, which states:

- “Sites for gypsies, travellers (or travelling show people) will be given permission where they:
 - Are capable of being serviced by basic utilities;
 - Meet an identified need;
 - Avoid environmentally sensitive areas and areas at risk of flooding;
 - Afford good access to main routes (including the A47 (T), A17, A10, A148/9 and A134); and
 - Are located within reasonable distance of facilities and supporting services (such as school or health provision).”

Need for pitches

Anyone coming forward with a planning application for a new pitch or a site for use by G&Ts, or a plot for Travelling Showpeople, would need to demonstrate that the intended occupants meet the planning definition, i.e. they currently travel or have ceased travelling temporarily and that they comply with the criterion specified in Policy H of PPTS and Core Strategy Policy CS09 (above). This is important as it ensures that the local authority can control any future occupancy to meet the needs of travellers who comply with the national definition.

The proposed occupants of the 4 pitches are specified as Charles Alfred Stevens, Cole Stevens, Sophia Angelina Stevens and Mark Stevens Jr (plus wife and children). With the exception of Mark Jr, all the named occupants are presently living in touring caravans on Mr Stevens Snr’s pitch on the existing site to the west; Mark Jr is living in Taunton doubled up unlawfully on another pitch as there is no room here. Information in the format of the questionnaire used in the GTAA has been submitted as part of this application. From information supplied and local knowledge of the family, your officers are satisfied that the named parties meet the current definition contained in the PPTS and this is backed up by correspondence from Mr Will Sutton (Elected Member of Fenland District Council for the Elm & Christchurch ward and ex-Treasurer of the March Amateur Boxing Club).

The Council’s GTAA (2016) identified a need for 5 additional pitches for G&T households who meet the PPTS definition, and a need for up to 35 additional pitches that may meet the new

definition – although if the national average of 10% is applied, this could be as low as 3 pitches. Households that may meet the definition are those that either refused to be interviewed or were not on site at the time of carrying out the assessment. The needs of these households still need to be recognised in the GTAA as they are believed to be ethnic G&Ts who may meet the new definition and therefore may be identified at the time of submitting an application.

In a fairly recent appeal decision, the Inspector noted that whilst it is intended to inform the local plan for the period up to 2036, the Council acknowledged that the 2016 GTAA has a “shelf life” of perhaps 3 – 5 years. Significant changes in data trends or increases in unauthorised encampments would prompt a review. This is not a simple mathematical equation as the situation is quite dynamic. The Council has instructed a new GTAA to be undertaken, however this has been subjected to significant delay due to the pandemic. This will inform emerging Policy LP28 of the Local Plan Review, but presently this has no weight in the decision-making process. It will however be noted that LP28 indicates the support of additional pitches to be secured via the expansion of existing sites.

Considering the information submitted, it is therefore accepted that the proposed occupiers meet the new definition of G&Ts and there is a demonstrable need for the proposed pitches to accommodate the next generation. (This position has been confirmed by our Housing Strategy Officer.)

The need is also evident by the ‘doubling up’ on sites and multiple caravans on existing authorised pitches which are contravening site licence restrictions.

Impact upon appearance of the countryside

As stated above, the site is effectively screened by existing peripheral established hedges and trees on neighbouring land. It is not open to wider public views and locally would be seen in context with the existing/adjoining established G&T site and mobile home.

The key question is would the harm to the character and appearance of this locality be outweighed by the need for the G&T site/pitches?

In this particular case it is considered that the proposal would not adversely affect the character and appearance of this part of the countryside. However even if there was minor impact, the demand/need would considerably outweigh any harm.

Details of lighting the site may be secured via condition prior to being implemented.

Other material considerations

Service by utilities

The site is capable of being served by water and electricity. Foul water is proposed to be disposed of via two septic tanks.

Access

The Local Highway Authority raises no objection to the proposal subject to conditions relating to construction of the access to agreed standard, no gates bollards etc. and visibility in accordance with approved plans.

There is ample on-site parking and turning to serve the pitches.

Flood risk

The application site falls within Flood Zone 1 of the Council adopted Strategic Flood Risk Assessment. The proposal is a compatible use within such zone. Our Emergency Planning Officer recommends signing up to the Environment Agency's Flood Warning System and the preparation of a flood evacuation plan as the site lies in a 'dry island' – to be covered by an informative note rather than a condition due to enforceability issues.

Foul water is proposed to be disposed of via two septic tanks and surface water is proposed to be disposed of via soakaways.

Concerns have been expressed by neighbours and Parish Council regarding flooding of adjoining land given slight differences in levels, however this may be negated by insertion of land drains and covered via condition.

Accessibility

The site is well located to local services and facilities:

Beaupre Community Primary School 1.4 miles
Upwell Health Centre 1.1 miles
North Cambs Hospital 7.3 miles
Upwell Post Office/General Store 1.1 miles
Costcutter 1.5 miles
St Peter's Church 1.0 mile
Church Bridge Bus Stop 1.0 mile

The Inspector opined in determining the appeal on the opposite side of Small Lode under ref: 10/00845/F (PINS ref: APP/V/2635/A/10/2139784/NWF) that Upwell combined with Outwell had a reasonable range of facilities and Wisbech and Downham Market approx. 8 miles away had a greater range. The site was not remote and it was necessary to be realistic about the availability of alternatives to the car in accessing services. It was also concluded that the site had reasonable access to main routes. This remains the case.

This issue has therefore already been addressed and found to be acceptable.

Grade 1 agricultural land

Virtually the whole of the parish is classed as Grade 1 agricultural land. Neighbourhood Plan Policy EN2 states: New development will only be permitted on Grade 1 agricultural land if:

- a) There are overriding community benefits resulting from the development; or
- b) There are no reasonably available sites within Upwell Parish appropriate for the proposed development on:
 - i. Previously developed land; ii. Land not in agricultural use;
 - or iii. Land which is not viable for commercial agricultural use.

It is clear that this land has not been in agricultural production for quite some considerable time and the benefits to the community in the form of additional pitches is considered to be an overriding factor.

Design and layout

The proposed plans show four similar sized plots/pitches each containing a static caravan/mobile home, touring caravan and parking for at least 2 vehicles. A site licence will be required under separate legislation from Environmental Health and it is expected that this may be achieved. This proposal therefore accords with the Designing G&T Sites – Good Practice Guide (2008) and Policies CS08, DM15 & DM15 of the Development Plan plus Policies H3 & H4 of the Neighbourhood Plan.

Amenity of neighbours

In recommending refusal the Parish Council refer to Government policy for travellers sites updated in 2015 which states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites do not dominate the nearest settled community. They believe that the residents at 200/204 Small Lode would be surrounded on all sides by travellers' sites and therefore completely dominated.

This has been taken out of context as the reference to 'settled community' is the village, not individual or groups of properties.

Peripheral boundary treatments abutting dwellings is proposed to be 2m high close boarded fencing with planting of native trees and shrubs alongside the boundary to the rear of No.204 Small Lode. These may be secured via condition.

Once again details of lighting the site may be secured via condition prior to being implemented.

The amenities of these adjoining dwellings would not therefore be unduly affected given the measures of hard and soft landscaping and separation distances, plus land drainage measures which may be secured via condition.

Crime and Disorder

There are not considered to be any crime and anti-social behaviour concerns related to this particular proposal.

CONCLUSION

In recommending refusal the Parish Council refer to Government policy for travellers sites updated in 2015 which states that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites do not dominate the nearest settled community. They believe that the residents at 200/204 Small Lode would be surrounded on all sides by travellers' sites and therefore completely dominated.

This has been taken out of context as the reference to 'settled community' is the village, not individual or groups of properties. The amenities of these adjoining dwellings would not be unduly affected given the measures of hard and soft landscaping and separation distances, plus land drainage measures which may be secured via condition.

For the reasons stated above it is considered that the proposal satisfies the criteria of Policy CS09 and the application is therefore recommended for approval subject to certain conditions stated below.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans: MS19-VIS, MS19-SLP Rev. B & MS19-BLOCK Rev. F.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: On each of the 4 pitches hereby approved, there shall be no more than two caravans, as defined in the Caravan Sites & Control of Development Act 1960 and the Caravan Sites Act 1968, stationed at any time (of which no more than one shall be a static caravan or mobile home).
- 3 Reason: To define the terms of this permission and to meet a specific need for Gypsy & Traveller sites in accordance with the provisions of the NPPF, PPTS, and Policies CS09 & CS06 of the LDF.
- 4 Condition: The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites 2015.
- 4 Reason: To define the terms of this permission and to meet a specific need for Gypsy & Traveller sites in a countryside location and to accord with the provisions of the NPPF, PPTS, and Policy CS09 of the LDF.
- 5 Condition: No commercial activities shall take place on the land.
- 5 Reason: To define the terms of this permission in the interests of the visual amenity of this locality and amenity of local residents; in accordance with the provisions of the NPPF, Policy CS06 of the LDF & Policy DM15 of the SADMPP.
- 6 Condition: Prior to installation, full details of any external lighting arrangements for the site shall be submitted to, and agreed in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6 Reason: In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the provisions of the NPPF, Policy CS06 & CS08 of the LDF and Policy DM15 of the SADMPP.
- 7 Condition: Prior to the commencement of the development, full details of the foul, land and surface water drainage arrangements for the site shall be submitted to, and agreed in writing by, the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is formally brought into use.
- 7 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

- 8 Condition: All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any authorised pitch or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 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 as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 8 Reason: To ensure that the work is carried out within a reasonable period and to assimilate the development into its rural setting; in accordance with the NPPF and Policies CS06 & CS08 of the LDF.
- 9 Condition: Prior to the first occupation of the development hereby permitted the vehicular access / crossing over the verge shall be constructed in accordance with the highways specification TRAD 5 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 9 Reason: To ensure satisfactory access to the site and avoid carriage of extraneous material or surface water from or onto the highway; in accordance with the provisions of the NPPF, Policies CS08 & CS11 of the LDF.
- 10 Condition: Prior to the first occupation of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved plan MS19-VIS. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.
- 10 Reason: To ensure satisfactory visibility at the access to the site; in accordance with the provisions of the NPPF, Policies CS08 & CS11 of the LDF.
- 11 Condition: Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates/bollard/chain/other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 11 Reason: In the interests of highway safety and to accord with the provisions of Policy CS11 of the LDF.
- 12 Condition: Prior to the first occupation of the pitches hereby permitted, the associated access, on-site car parking and turning areas shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 12 Reason: To ensure the permanent availability of the parking/manoeuvring areas in the interests of highway safety; in accordance with the provisions of the NPPF, Policies CS08 & CS11 of the LDF.