

APPENDIX 1

Development Control Planning Application Consultation – Planning Policy comments

To: Development Control (Christine Flittner)
From: Planning Policy
Date: 27 November 2014
Ref: DC/14/1667/FUL

Location: Rougham Hill, Bury St Edmunds

Proposal: Change of Use of woodland to Gypsy/Traveller site

Thank you for consulting the Planning Policy section in respect of this application.

The application has to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. At present the Development Plan comprises:

- St Edmundsbury Core Strategy, December 2010
- Bury St Edmunds Vision 2031, September 2014
- Remaining saved policies in the Replacement St Edmundsbury Borough Local Plan, 2006
- The emerging Joint Development Policies document (consultation on the Inspector's modifications ends on 27th November, with adoption planned for February 2015)

The following policies within these documents are of particular note in the consideration of this application:

Core Strategy

- CS2 Sustainable Development
- CS3 Design and Local Distinctiveness (this replaced Policy DS3 of the Replacement Local Plan)
- Policy CS6 Gypsies, Travellers and Travelling Showpeople
- Policy CS11 Bury St Edmunds Strategic Growth

Bury St Edmunds Vision 2031

- Policy BV7 – Strategic site South East Bury St Edmunds
- Paragraphs 5.51-5.56 – Gypsy and Traveller sites
- Appendix 10 – South East Bury St Edmunds Concept Statement

Replacement St Edmundsbury Borough Local Plan 2006

- NE2 Protected Species
- NE3 Protection of the Landscape

Joint Development Management Policies Document

The Joint Development Management Policies document is currently under examination, with a consultation on the Inspector's proposed modifications to the policies ending on 27 November 2014. It is anticipated that this document will be adopted in February 2015. At this stage in the plan process the document can be afforded a significant degree of weight. The policy particularly relevant to the proposals is Policy DM11 (as modified) Impact of Development on Sites of Biodiversity and Geodiversity Importance; and DM14 (as modified) – Landscape Features.

National Policy

The following Central Government planning guidance are material considerations in the making of planning decisions:

- The National Planning Policy Framework (2012)
- Planning policy for Traveller Sites (2012)

Central Government is currently undertaking consultation in respect of changes to national planning policy and Planning Policy for Traveller Sites with the intention of strengthening policy in these areas. The consultation ends on 23 November 2014.

The need for additional Gypsy and Traveller accommodation.

The most up to date evidence in terms of future requirements is the Gypsy and Traveller Accommodation Needs Assessment (GTNA) published in October 2011, with an update published in April 2012.

In relation to need, the Inspector's report into the examination of the Vision 2031 documents (July 2014) states at paragraph 39;

'There are existing planning permissions for five pitches (a net increase of three), which are deliverable and are sufficient to meet the need for the next five years, while the Bury Vision 2031 document identifies a broad location for growth to meet the identified need in years six to ten. Thus the requirements of PPTS para 9(a) & (b) are met by the plan.'

A summary of the overall requirement is set out in paragraphs 5.54-5.56 of the adopted Bury St Edmunds Vision 2031 document. The figures equate to a need of 4-6 pitches to 2021 (which has been met by existing permissions) and a further 3 to 6 pitches to 2031 (the south east strategic site is identified in the adopted concept statement as a suitable location, should a need be

identified at the time). This total of 7-12 pitches is significantly lower than that previously required by the now revoked East of England Plan.

A review of the Traveller Needs Assessment is currently being undertaken by the Cambridgeshire County Council, the results of which will form an updated evidence base for the council.

Taking into account the requirements established in the Bury St Edmunds Vision 2031 document, it is important to distinguish between a required 'theoretical' need in a Local Plan document, as opposed to an immediate 'actual' need which presents itself in the form of family requiring a gypsy/traveller site.

This application is dealing with an actual need and therefore needs to be assessed in relation to current planning policy, to determine whether the principle of development on the site is acceptable.

This application would provide a total of five pitches which would meet the borough's long term need for a further 3-6 pitches to 2031. If any additional families presented a need for a gypsy and traveller site before the end of the plan period (2031), these applications would be judged against the adopted Core Strategy criteria based policy CS6 – Gypsies, Travellers and Travelling Showpeople.

The principle of the development

This application presents three key issues for consideration in relation to the principle of development;

1. The application is on land which forms part of a wider strategic area of growth in south east Bury St Edmunds (Policy BV7), which states 'applications for planning permission will only be determined once the masterplan for the whole site has been adopted by the local planning authority.' Therefore the application for development on this land could be considered to be premature coming forward in advance of the masterplan.
2. Whether the application meets the requirements set out in the national Planning Policy for Traveller sites
3. Whether the application meets the requirements set out in local Policy CS6 of the Core Strategy.

These issues are considered below in turn;

1. Prematurity

In July 2014, application DC/14/1261/FUL was submitted for change of use of land to form an extension to the residential retirement park at The Firs. The application site forms part of the wider south-east Bury St Edmunds strategic development allocation set out in the newly adopted Bury St Edmunds Vision 2031 document.

The land in question is allocated by policy BV7 of Vision and states ... *applications for planning permission [for development within the site allocation] will only be determined once the masterplan for the whole site has been adopted by the local planning authority.*

Whilst work has commenced (by a developer consortium), a masterplan for the whole site is yet to be adopted by the Council. The latest information from the consortium is that consultation on the draft masterplan is likely to take place in Spring 2015, to be followed by the submission of a planning application. This means the application proposal for The Firs (being part of the masterplan site) was contrary to Policy BV7. In early November the application was withdrawn, one of the reasons being its prematurity in advance of the masterplan process for the whole site.

The application for the gypsy and traveller site is also located within the boundary of allocated site BV7 and could therefore also be considered to be premature of the masterplan process for the whole site. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

It is important to make the distinction between the application for the extension to the residential retirement park, and the application subject of this policy response for the change of use of land from woodland to a gypsy and traveller site.

It is considered that unlike the need for market housing, the presentation of an actual need for a gypsy and traveller site is a material consideration that could warrant the departure from an adopted development plan policy.

2. National Guidance

One of the main intentions of the national guidance Planning policy for Traveller Sites – was to;

'(3) ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.'

Within the guidance, 'gypsies and travellers' means 'persons of nomadic habit of life, whatever their race or origin, including such persons who on

grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.'

In relation to plan making, the guidance is clear in Policy B that;

'(10) Criteria should be set to guide land supply allocations where there is identified need. Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward.'

Policy H* sets out information on determining planning applications for traveller sites and sets out the issues, amongst other relevant matters, to be considered;

- 'a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) that they should determine applications for sites from any travellers and not just those with local connections'*

These issues are considered in turn below;

a) **'need'** – The family clearly have an urgent 'actual' need for a site, despite the 'theoretical' short term need for sites having been met by other planning permissions. This is demonstrated by the various unauthorised encampments which were resolved by the provision of short term permission to reside at Moreton Hall (temporary stopping site).

b) **'availability'** – A number of rounds of 'calls for gypsy and traveller sites' took place during the preparation of the Vision 2031 site allocation documents, the most recent being in summer 2013. No sites were submitted to the Council or identified at that time. It is also understood that the family themselves have been actively searching for site in the vicinity of the town. The site is within the red line boundary of Policy BV7 which indicates availability and intent to deliver; however, to date no discussions have taken place with the developer consortium as to the location of a gypsy and traveller site in the context of the masterplan. The developers are currently objecting to this application on the basis that the location of a site will be considered at the time of development, should there be a need at that time. It should be noted that if planning permission is granted for Gypsy and Traveller provision at the community woodland site, this may well meet all of the gypsy and traveller needs for the SE site.

c) '**personal circumstances of the applicant**' – It is understood that the family have been living in the Bury St Edmunds and the wider area for some years, have children in local schools and have made local employment connections.

d) '**locally specific criteria**' – Policy CS6 sets out the locally specific criteria against which any applications for a gypsy and traveller site should be determined. This is considered in further detail below.

e) '**determine application for any sites – not just those with local connections**' – This guidance is being followed in the determination of this application.

3. Local Planning Policy

Policy CS6 of the Core Strategy is a criteria based policy for the assessment of proposals for gypsies, travellers and travelling showpeople. The policy states that proposals which would not cause unacceptable harm will be permitted where they had regard to the following factors:

- a) Designated and protected habitats and species, heritage designations, soil and water quality, and other natural resources;
- b) The location in relation to schools, medical facilities, shops and other local services and community facilities;
- c) The amenities of nearby occupiers;
- d) Their size and scale in relation to any nearby existing community;
- e) The character and appearance of the countryside;
- f) The provision of a satisfactory means of access and the adequacy of the highway network.

Each point is considered in turn below;

a) Designated and protected habitats and species, heritage designations, soil and water quality, and other natural resources;

The area is designated as community woodland and the proposed development would require the felling of an area of broadleaf plantation woodland. Whilst there is no indication within the applicant's supporting information that the potential loss of woodland will be mitigated elsewhere, it should be taken into consideration that the development of the south-east strategic site will provide significant areas of public open space and the loss of this land could be taken into account during the preparation of the Masterplan for the site.

The Ecology, Tree and Landscape Officer will provide a response on the potential impact on protected species and habitats and the impact of any net biodiversity loss.

The site is not affected by any heritage designations.

b) The location in relation to schools, medical facilities, shops and other local services and community facilities;

The site is located on the south eastern edge of Bury St Edmunds, within walking distance of shops, medical facilities and other local services and community facilities. The development of the south-eastern strategic site will further improve the availability of services and facilities in this location.

c) The amenities of nearby occupiers;

The application site is located on the northern edge of the town, under Policy BV7 south east strategic growth area. The application site and the adjacent lorry park are both outside of the control of the south east area's developer and are owned by Suffolk County Council. The site lies adjacent to a lorry park and is a short distance from a waste and recycling centre. The site lies opposite a group of business units, the Veterinary Investigation Centre and to the south is a golf driving range. There are currently no residential dwellings within the immediate vicinity of the site. Suffolk Constabulary's response to the application confirms that application is of low risk in terms of impact on residential or other amenity.

d) Their size and scale in relation to any nearby existing community;

The application is for five pitches which will lie wholly within the wooded area to the east of the lorry park. The scale is deemed appropriate in relation to the site plan submitted with the application and does not directly impact on existing communities.

e) The character and appearance of the countryside;

The site lies within the settlement boundary of Bury St Edmunds under policy allocation BV7 for the south east strategic growth area and will not impact on the character or appearance of the countryside.

f) The provision of a satisfactory means of access and the adequacy of the highway network.

The site is accessed off an existing highway and it is noted that Suffolk County Council Highways have not issued an objection to the application on highways grounds.

Conclusions

When considering the application against national and local development policy, it is clear that the starting point must be whether there is a need for

the site. It has been established that the family's 'actual' need for a site, as opposed to any 'theoretical' need set in traveller needs assessments, requires the application to be considered against the criteria in both national and local planning policy.

It is considered that whilst this application could be considered to be premature in advance of a masterplan being developed and adopted for the south east strategic growth area, the urgent need for a gypsy/traveller site presented by the applicant is a material consideration which in this case warrants a departure from the adopted development plan. In any case, it is considered that determining the application would be highly unlikely to fetter the delivery of the Masterplan as a whole, and therefore would not compromise the delivery of Policy BV7.

In respect of the assessment of the site against national and local planning policy, it is considered that the location of the site would not cause unacceptable harm in relation to the criteria b)-f) of Policy CS6 of the Core Strategy. Criteria a) will be considered in full by the Ecology, Tree and Landscape Officer.

On the basis of the above information, on balance it is recommended that the planning application as submitted be approved.

AMH
Planning Policy
27.11.14