

ENFORCEMENT ACTION REPORT

REPORT BY: Neil Langley

Date 22 Dec 2022

ENFORCEMENT CASE NUMBER – EN/01535/20 LAND AFFECTED –

Land To The East Of Chear Fen Boat Club
Twentypence Road
Cottenham
Cambridgeshire

THE ALLEDGED BREACH OF CONTROL –

Without planning permission, the material change in use of the Land for the stationing of caravans for residential occupation.

Description of site and details of the breach

The area known as the Land South of Chear Fen Boat Club is an area of approximately 25 acres of agricultural land which lies outside the Cottenham Village Framework in open countryside, immediately adjacent to the river Great Ouse.

The alleged breach of planning control relates to a material change of use of the land to residential use as 9 caravan pitches. Hardstanding and earth bunds around the site facilitate the unauthorised use.

Relevant planning history

1. S/1346/16/LD - Certificate of lawful development for the standing of a mobile home. Permitted October 2016.

This lawful use is considered abandoned and the current use and development breaches are considered separate.
2. S/0403/75- Siting of a mobile home-Refused
3. Enforcement Notice issued on 21 June 2021 for the material change of use of the land to a caravan site for residential use involving the siting of two sectional caravans and three touring caravans and the unauthorised development of concrete bases. This enforcement notice was appealed and subsequently withdrawn.
4. Enforcement Notice issued in the Autumn 2022 for the change of use of land through intensification to the stationing of caravans for residential

- purposes, nine dayrooms and the formation of hardstanding ancillary to that use. This enforcement notice was appealed and subsequently withdrawn.
5. 22_01703_FUL Change of use of land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use, Refused 5 Sept 2022
6. 22_01574_CL2PD S192 stationing of 2 mobile homes for residential purposes, Refused 5 Sept 2022

National Guidance

National Planning Policy Framework (NPPF) 2021

Planning Policy

South Cambridgeshire Local Plan 2018

S/3 Presumption in Favour of Sustainable Development

S/7 Development Frameworks

HQ/1 Design Principles

H/20 Provision for Gypsies and Travellers and Travelling Showpeople

H/22 Proposals for Gypsies, Travellers and Travelling Showpeople Sites on Unallocated Land Outside Development Frameworks

H/23 Design of Gypsy and Traveller Sites, and Travelling Showpeople Sites

NH/4 Biodiversity

CC/8 Sustainable Drainage Systems

CC/9 Managing Flood Risk

SC/10 Noise Pollution

SC/11 Contaminated Land

TI/2 Planning for Sustainable Travel

TI/3 Parking Provision

South Cambridgeshire Supplementary Planning Documents (SPD)

South Cambridgeshire District Design Guide SPD (2010)

Greater Cambridge Sustainable Design and Construction SPD (2020)

Biodiversity SPD – Adopted 2022

Trees and Development Sites SPD – Adopted January 2009

Landscape and new development SPD – Adopted March 2010

Cottenham Neighbourhood plan 2021

Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

(“MWLP”) Policies 5 and 16

Consultations

None undertaken

History

The Land was previously owed by a [REDACTED] and her son.

On 26 May 1978, without permission, a mobile home was sited on part of the Land. The mobile home was lived in by the [REDACTED] as their sole main residence from then until they sold the Land in January 2016. At which point they also vacated the mobile home. The Land was purchased in four parcels from the [REDACTED] by Mr [REDACTED] between 10 April 2014 and 4 January 2016.

After the [REDACTED] vacated the mobile home, it appears that the mobile home lay empty on the Land as it was considered unfit for human habitation by the new owner.

On 11 May 2016 [REDACTED] submitted an application for a certificate of lawful existing use or development for “the standing of a mobile home” on the Land.

On 2 November 2020, a planning enforcement officer visited the Land and observed that a large 2 section caravan had been sited on a new concrete base and a touring caravan was parked in proximity. The siting of the new base and caravans is not in accordance with the plan which forms part of certificate application S/1346/16/LD. [REDACTED] son, [REDACTED] has purchased the Land and is now resident on the Land with his family.

On 12 March 2021 a joint site visit was conducted by a planning enforcement officer and the Council's traveller liaison officer. They spoke with [REDACTED] who declined to answer questions in relation to needs assessment (on advice of agent [REDACTED]). The plot consisted of one large 2 section caravan, on a concrete base with services connected, 2 touring caravans used as sleeping accommodation [REDACTED]

Another plot had been created on the land divided by a wooden boarded fence. This plot was occupied by [REDACTED] and his family, wife [REDACTED] and [REDACTED]. The plot consisted of one large 2 section caravan, on a concrete base with services connected, 1 touring caravan used as sleeping accommodation for the [REDACTED]

On 21 May 2021 the Council served an Enforcement Notice which was appealed and subsequently withdrawn.

The land was then sold to the current owners and the [REDACTED] removed all the caravans from the site.

On 21 June 2022 the Council received reports that new occupiers had moved onto the site.

On 27 June 2022 Council officers visited the property and report the following:

‘Joint site visit with Deborah Jeakins, County Council, waste and minerals,

Meet with the new owners

and his Cousin

The work being carried out appears to consist of profiling the boundary bunds, which will be completed today. Clean crushed concrete has been imported using Meads to create / repair an existing roadway. No further crushed concrete has been ordered. The only further scheduled delivers are for sand to lay the 3 Phase electric supply in trenches once the electric company has quoted for the work. The concrete hard standings laid by the previous owners the [REDACTED] are being broken up for removal. There was no evidence of illegal waste being imported or used in any of the work. [REDACTED] report that the site has been broken into damaging the electric gates and fly tipped waste has been dumped, which they have used Meads to dispose of.

The site is currently occupied by 9 families related by blood living in touring caravans who hope to make it their permanent home if planning permission is granted. The reason given for the premature occupation is that information has been received that a group of 50 Irish Travellers intended to illegally occupy the land. Photos taken see copies in idox.'

Planning Comments – Key Issues

There is no concrete evidence that the occupiers are gypsies or travellers within the definition of Annex 1 of the PPTS. It might therefore be inappropriate to describe the breach as gypsy/traveller pitches and instead the breach is described as caravan pitches.

Nevertheless, in the event the occupiers are in fact gypsies or travellers falling within the definition of Annex 1 of the PPTS, special planning considerations apply which have been set out in the planning report. These considerations apply to the reasons for recommending enforcement action but are not an admission that the Council considers the occupiers to fall within the definition.

Other planning considerations are set out in the planning reports associated with 22_01703_FUL and 22_01574_CL2PD.

Human Rights

The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

It is known that 9 families currently occupy the site. It is not known whether the occupiers fall within the definition of gypsies or travellers in accordance with Annex 1 of the PPTS, nor is it

known where the occupiers have come from and, if they are travellers, why they could not stay at their previous site.

In response to a Planning Contravention Notice the Council was told that [REDACTED] live on site, with a further new arrival expected before Christmas. It is not known whether the children attend local schools. The occupiers have moved onto the site without first securing planning permission but might well have good reasons for so doing. It is likely that the children will already have established ties with local schools.

Health needs are unknown [REDACTED]
[REDACTED] It is known that gypsies and travellers have higher health needs than the settled community so if the occupiers are indeed gypsies and travellers, it is to be expected that they would have higher health needs.

The occupiers have had the benefit of a professional planning agent who failed to provide any details of special educational or health needs in the planning application. The reason for occupation of this site in particular has not to date been justified on the grounds of health or educational needs.

The effect of enforcement action is to require occupiers to leave the site. Ordinarily this would be an interference to their Article 8 (and other) rights, in particular if children have already established ties with local schools and doctor's surgeries.

However, for the reasons set out in the planning report, in particular the Highways reasons, possible asbestos contamination and risks to health from noise and dust from the adjacent quarry site, the site is unsuitable to be lived on. Flood risk is exacerbated for people with healthcare needs due to potential mobility issues where escape is required. Due to the compelling reasons for recommending refusal of the planning application, it is considered that the impact of allowing the occupiers (and children) to continue living on the site would outweigh the inconvenience of leaving the site and living elsewhere. This assessment is made without full information on the occupiers, but assumptions have been made that there will be a level of need. Given the severity of the planning harm occasioned by the development, it is unlikely that a different conclusion would be reached if the Council had been in receipt of full information on the occupier's personal circumstances.

The appeals process allows for an opportunity for more detailed personal considerations to be assessed. This appeals process will need to run its course before the occupiers will be required to leave the site.

In the event that compelling personal circumstances are brought to the attention of the Council, consideration can be given to extending the period of compliance to allow the occupiers to find an alternative site.

Recommendation

Issue enforcement notice.

Reasons for the Notice

The site is located outside of the development framework boundary of Cottenham. The proposal would result in the encroachment into the open countryside and incremental growth in an unsustainable location. To access local services/facilities the future occupiers of the site will have to travel a significant distance via a car. The proposed development would

represent encroachment of the open countryside, incremental growth in an unsustainable location and a need to travel, particularly by car. The proposal is therefore contrary to Policies S/3, S/7, H/22 & TI/2 of the South Cambridgeshire Local Plan 2018 and fails to comply with the provisions of the National Planning Policy Framework.

The proposed development would result in a significant urbanisation of the application site in a rural setting. The urbanisation of this site would fail to appropriately relate to its setting and would significantly harm the character of the site and the wider surrounding area. Accordingly, and given the proposal would be located outside of the development framework of Cottenham, the development contravenes Policies S/7, H22 & HQ/1 of the South Cambridgeshire Local Plan and fails to comply with the provisions of the National Planning Policy Framework and therefore allow a form of development that is not sustainable.

The proposed development does not accord with Policy 16 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan nor paragraph 187 of the NPPF because it has not been demonstrated that the Mitchell Hill Quarry will not result in unacceptable amenity issues or adverse impacts to human health for the occupiers or users of the proposed development; dust and noise are of particular concern. The applicant has also failed to demonstrate that the proposed development is compatible with the adjacent quarry.

In the absence of a statement demonstrating safeguarding of the Sand and Gravel Mineral Safeguarding Area, the proposal is contrary to Policy 5 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan (June 2021).

In the absence of submission of a biodiversity statement outlining the mitigation methods of the impact the proposal will have upon the local wildlife or existing planting, the proposed development is contrary to Policy NH/4 of the South Cambridgeshire Local Plan.

The development is proposed on contaminated land. In the absence of an assessment of the extent of contamination and any possible risks, the proposed development is contrary to Policy SC/11 of the South Cambridgeshire Local Plan.

The proposed development partly falls within Flood Zone 3. At present the flood risk of part of the site means the safety of people and ability of people to reach places of safety or access by emergency services is compromised. The proposed development is therefore contrary to Policies CC/8 & CC/9 of the South Cambridgeshire Local Plan and Section 14 of the NPPF.

The proposed development would lead to the creation of an access on a stretch of classified highway where the principal function is that of carrying traffic freely and safely between centres of population. The vehicular movements associated with the use of the access in respect to stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use would lead to conflict and interference with the passage of through vehicles to the detriment of the principle function and introduce a point of possible traffic conflict, being detrimental to highway safety. The proposed development is therefore contrary with Policy TI/2 of the South Cambridgeshire Local Plan and Section 9 of the NPPF.

The steps required

- Step i. Permanently cease the use of the Land for the stationing of caravans for residential occupation.
- Step ii. Permanently remove all caravans, non-agricultural equipment, vehicles and other domestic items from the Land, which facilitate the material change of use of the Land.

- | | |
|-----------|--|
| Step iii. | Permanently remove all sheds, outbuildings and other domestic structures and paraphernalia from the Land, which facilitate the material change of use of the Land. |
| Step iv. | Permanently remove all fencing from the Land that have been erected to subdivide the Land, including all associated fixtures fittings and detritus therefrom, which facilitate the material change of use of the Land. |
| Step v. | Permanently remove all hardstandings facilitating the material change of use of the Land and restore the ground levels to its previous condition. |
| Step vi. | Permanently remove all earth bunds facilitating the material change of use of the Land and restore the ground levels to its previous condition. |

Suggested time for compliance

Three months from the date the enforcement notice becomes effective. This time period is considered sufficiently long to allow occupiers to move off the site and to reinstate the land to its previous condition.

In the event the occupiers experience genuine difficulties with compliance, consideration can be given to extending the period for compliance.

Fee required

£462 x 2

Signature of authorising officer: Toby Williams **Date:** 22 Dec 2022

