S20/0669

Proposal: One mobile home and one touring caravan for a traveller that works in forestry
Location: Land North of Bennington Bait, Valley Lane, Long Bennington, Lincolnshire, NG23 5EE
Applicant: Mr Sam Smith, 19 St. Clements Court, Leicestershire, LE3 9RA
Agent: Mr Alec Stathem, Garland Stud, Bagworth Road, Barleston, Nuneaton
Application Type: Full Planning Permission
Reason for Referral to Committee:
Key Issues: Principle of the development
Impact on the character and appearance of the area
Impact on the neighbours' residential amenities
Highway issues
Flood Risk and Drainage

Technical Documents: Ecological Appraisal Survey Report

Report Author
Shikha Dasani, Development Management Planner
01476 406080
Shikha.dasani@southkesteven.gov.uk

Corporate Priority: Growth | Decision type: Regulatory | Wards: Viking

Reviewed by: Phil Jordan, Principal Planning Officer | 1 February 2021

Recommendation (s) to the decision maker (s)
That permission is granted for a temporary period and subject to conditions
1 Description of Site

1.1 The site is located to the south of Valley Lane, just off the slip road of the A1 at Long Bennington, Lincolnshire. The site lies outside the settlement of Long Bennington, to the North West, in a rural open countryside location adjacent to the A1.

1.2 Since the application has been submitted, a 2m high close boarded fence has been erected around the site. The site has also been occupied and during a recent site visit it is noted there were two caravans as well as a portaloo, a works transit van and trailer.

1.3 The site has been visited by the Council’s enforcement officer and an initial welfare assessment of the living conditions on-site has been carried out.

2 Description of Proposal

2.1 This application seeks permission for the change of use of the land to a travellers’ site for the provision of one mobile home and one touring caravan for a forestry worker. The personal circumstances of the applicants have been set out within a statement submitted in support of the application. In summary this states that accommodation is sought for the applicant, his wife and four children.

2.2 The applicant works as a landscape gardener and tree surgeon across the Midlands. The site has been chosen due to its proximity to employment opportunities and to allow for the children to continue their education at their existing school in Newark.

2.3 The application has been submitted to provide accommodation for a traveller. It is considered from the personal circumstances that although the applicant no longer wishes to travel, that the family falls within the definition of being gypsies. This has not contested by the Traveller Liaison Officer at LCC who is aware of the family and their background.

3 Relevant History


4 Policy Consideration

4.1 SKDC Local Plan 2011 - 2036
SP5 – Development in the open countryside
H5 – Gypsies and Travellers
EN1 – Landscape Character
EN2 – Protecting Biodiversity and Geodiversity
EN4 – Pollution Control
EN5 – Water Environment and Flood Risk Management
DE1 – Promoting Good Quality Design
Policy ID2 – Transport and Strategic Transport Infrastructure
5 Representations Received

5.1 LCC Highways & SuDS Support
5.1.1 [Following the submission of additional information regarding the access] Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

5.2 Environment Agency
5.2.1 The Environment Agency does not wish to make any comments on this application.

5.3 Environmental Protection Services (SKDC)
5.3.1 Requests further detail to assess to noise from the A1 and odour from the adjacent maggot farm which could have an adverse impact on amenity of the proposed accommodation.

5.4 Heritage Lincolnshire
5.4.1 We have no archaeological comment to make in respect of the above application

5.5 Long Bennington Parish Council
5.5.1 Object to the application for the following reasons:
- Lack of detail, errors and quality of application
- Approval would set a precedent for further development of the site
- Proposed development not in accordance with local and neighbourhood planning policies
- Highway safety concerns
- Noise and odour impact from A1 and adjacent maggot farm
- Lack of footpath to village
- Question traveller status of applicant
- Lack of need for traveller pitches

6 Representations as a Result of Publicity

6.1 This application has been advertised in accordance with the Council's Statement of Community Involvement and 5 letters of objection have been received. The points raised can be summarised as follows:
1) Visual impact;
2) Highway safety;
3) Scale of development would increase;
4) Impact on ecology including protected species;
5) Site is already occupied;
6) Fencing has already been erected.

7 Evaluation

7.1 The Principle of Development

7.1.1 Planning law states that planning decisions must be made in accordance with the development plan unless there are material considerations with indicate otherwise (section 70(2) Town and Country Planning Act 1990 & section 38(6) of the Planning and Compulsory Purchase Act 2004).

7.1.2 The South Kesteven Local Plan was adopted in January 2020. It is recently adopted and therefore has full weight in decision making. Long Bennington Neighbourhood Plan was adopted in 2017 and is part of the development plan relevant to the determination of this application.

7.1.3 Local Plan Policy SP5: Development in the Open Countryside, requires that development be limited to that which has an essential need to be located outside of the existing built form of a settlement.

7.1.4 The Long Bennington Neighbourhood Plan Policy LB1 states that planning applications for new housing should take into account the following: i. The impact of the development on the form, character and setting of the settlement and on the community and the local environment; ii. The availability of suitable drainage/ utility services taking into account the unsuitability of current "combined" drainage systems currently prevalent in the village; iii. Appropriate access to and from the development; and iv. The existing pattern of development and the need to restrict further linear development which would have the effect of extending the village boundaries.

7.1.5 Policy H5: Gypsies and Travellers states proposals for residential Gypsy and Traveller pitches will be supported where:

a. the proposed site provides an acceptable living environment for its residents;
b. the site has good access to the highway network and will not cause traffic congestion or safety problems;
c. the site is in reasonable proximity to shops, schools and health facilities;
d. the site is not identified as an area at risk of flooding in the Strategic Flood Risk Assessment (SFRA); and
e. the scale and layout of the site will respect its relationship with any residential (settled) community and not place undue pressure on the local infrastructure.

7.1.6 The definition of 'gypsies and travellers' in the Planning Policy for Traveller Sites (August 2015) (PPTS) is as follows: "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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

7.1.7 The Council is satisfied that based on the information submitted and discussion with the Traveller Liaison Officer at LCC that the family falls within the definition of being gypsies.

7.1.8 The South Kesteven & Rutland Gypsy, Traveller and Travelling Show people Accommodation Assessment 2016 provides that for South Kesteven District there is an identified need for 32 residential pitches during the period 2016 to 2036. The need arises as follows over this period:

- 2016 - 2021 - 16 pitches or 3.2 pitches per annum
- 2021 - 2026 - 5 pitches or 1 pitch per annum
- 2026 - 2031 - 5 pitches or 1 pitch per annum
- 2031 - 2036 - 6 pitches or 1.2 pitches per annum.

7.1.9 To date, 2 pitches have been granted planning permission since 2016 on Harrowby Lane in Grantham (S17/1378) and a further pitch has been applied for under reference: S20/2223. In addition, an application is pending consideration for 2 pitches in Fulbeck (reference S20/2128) and a planning appeal is pending for a further 6 pitches at Cold Harbour, reference APP/E2530/W/19/3242145 (SKDC reference: S18/0944). To conclude, the most up to date Gypsy and Traveller Accommodation Assessment for the District identifies a need for 16 pitches between 2016 and 2021. To date this figure has not been achieved and therefore the proposal would contribute towards meeting this requirement.

7.1.10 The NPPF (section 5) requires that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, and that the needs of groups with specific housing requirements are addressed.

7.1.11 For consideration of traveller sites, the NPPF should be read in conjunction with the Planning Policy for Traveller Sites (2015) (PPTS), which is a material consideration in planning policies and decisions and addresses planning issues relating to traveller sites across the country. The policy provides under para 13 that:

7.1.12 'Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

a) promote peaceful and integrated co-existence between the site and the local community
b) *promote, in collaboration with commissioners of health services, access to appropriate health services*

c) *ensure that children can attend school on a regular basis*

d) *provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*

e) *provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*

f) *avoid placing undue pressure on local infrastructure and services*

g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*

h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability*.

7.1.13 However, as is outlined above a number of specific environmental and technical issues also need to be achieved in order for such a proposal to be acceptable, these are discussed in detail in the following sections below.

7.1.14 Para 27 of the PPTS states that if local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The Council is unable to demonstrate an up to date 5 year supply of gypsy and traveller pitches and the site does not fall within the exceptions provided in para 27 of the PPTS.

7.1.15 Whilst the Council is unable to demonstrate a sufficient supply of pitches and therefore para 27 would direct the Council to consideration of a temporary planning permission, this site is potentially one which can be considered to be appropriate in this instance due to the minimal harm the proposal is considered to result in to the character and appearance of the area and the impact on the existing residential community which are considered further below.

7.2 **Compliance with Local Plan Policy H5**

7.2.1 Local Plan Policy H5 is titled Gypsies and Travellers and is within the current development plan. In line with advice in the PPTS (para. 22) the development plan must be used for the determination of applications, unless material considerations indicate otherwise. Each criteria of Policy H5 is considered below:

7.2.1.1 **The proposed site provides an acceptable living environment for residents**

- Permission for the permanent occupation of the site was previously refused under S19/1306. Reasons 4 and 5 of that decision considered that insufficient information had been submitted to assess the noise impacts from the A1 and odour impacts from the adjacent maggot farm. Environmental Protection have again requested these details which have not been submitted. However, it is noted that the applicant has since occupied the site and suggested they have no alternative accommodation, other than to live roadside.
- In absence of any technical information, it was noted during observations from the site visit that noise from the A1 (which is over 200m to the east) did not appear to be significant such that it would result in an unacceptably detrimental impact on residential amenity. Further, it is noted that there are several existing residential properties, as well as those planned through allocation LV-H8, in Long Bennington closer to the A1 and in the direction of the prevailing wind.
- Likewise, based on two sites (the first in August 2020 and the second in January 2021) there was no odour from the maggot farm.
- The welfare assessment carried out by the Council, confirms the site has electricity, but water and drainage have yet to be provided. However, there is means to provide and connect to these services should planning permission be granted.

7.2.1.2 The site has good access to the highway network and will not cause traffic congestion or safety problems

- Further to the submission of further detail regarding the access, Lincolnshire County Council (as local Highway Authority) have not objected to the proposal which are considered to allow for a sufficient visibility splay so as not to result in any highway safety issues.
- The traffic impact associated with a single pitch is not considered to result in any significant traffic issues that would warrant a refusal on these grounds.

7.2.1.3 The site is in reasonable proximity to shops, schools and health facilities

- The site is located in close proximity to the village of Long Bennington which contains a number of facilities and services and public transport. It is not considered reasonable to say that this site is inaccessible as it too would support the sustainability of Long Bennington as a settlement, as well as services and facilities in neighbouring villages.

7.2.1.4 The site is not identified as an area at risk of flooding in the SFRA

- The site is not identified within the SFRA as being at risk of flooding, it is within flood zone 1 (at the lowest risk of flooding).
- There are no known surface water flooding issues associated with the site and Lincolnshire County Council (as lead local flood authority) have not objected to the proposal.

7.2.1.5 The scale and layout of the site will respect its relationship with any residential (settled) community and not place undue pressure on the local infrastructure

Having regard to the separation distance between the site and the nearest community, as well as the proposed boundary treatment of fencing which has already been implemented, it is considered that the development would not lead to any conflict with the neighbouring settlement. Furthermore, it is considered that the proposal is not of such a scale as to be likely to place undue pressure on local infrastructure.
7.3 Impact on the Character and Appearance of the Area

7.3.1 Local Plan Policy DE1 states (amongst other criteria) that to ensure high quality design is achieved throughout the District, all development proposals will be expected to make a positive contribution to local distinctiveness, vernacular and character of the area. Proposals should reinforce local identity and not have an adverse impact on the streetscene, settlement pattern or the landscape / townscape character of the surrounding area. Proposals should be of an appropriate scale, density, massing, height and material, given the context of the area. Policy EN1 seeks to ensure development is appropriate for its context. The NPPF (section 12) states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. These policies are echoed in policy LB2 (Design Principles) of the LBNP.

7.3.2 The visual impact arising from the proposal would essentially be the introduction of a mobile home and touring caravan. The site would be mainly visible in close quarters along Valley Lane. Whilst little information on the boundary treatment has been provided a 2m fence has already been constructed. When considered in context, which includes the established maggot farm to the south of the site, there would be no harm created as a result of its presence and therefore no objections are raised on this element of the scheme. Whilst it is accepted that the site is, in planning terms, located in the open countryside it is close to the north western boundary of Long Bennington. The proposed scale of the development would not be detrimental upon the character and appearance of the area could be further mitigated through an appropriate landscaping condition.

7.3.3 Further conditions are recommended to control any commercial activity and potential lighting on-site to ensure the proposal would be appropriate for this context and in accordance with Local Plan policies DE1 and EN1, the Long Bennington Neighbourhood Plan and the NPPF (section 12).

7.4 Impact on the Neighbours’ Residential Amenities

7.4.1 Local Plan Policy DE1 states (amongst other criteria) that all development proposals will be expected to ensure there is no adverse impact on the amenity of neighbouring users. Paragraph 127 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. These policies are echoed in policy LB2 (Design Principles) of the Long Bennington Neighbourhood Plan.

7.4.2 The closest residential properties are located over 400m to the east and on the other side of the A1. Taking into account the nature of the proposal, small scale, and adequate separation distances to neighbouring sites, it is considered that there would be no unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with the above policies and guidance.

7.5 Highway Issues
7.5.1 The matter of access has been addressed in detail under the section on Policy H5 above.

7.6 **Flood Risk and Drainage**

7.6.1 As stated the application site is located in flood zone 1 with a low probability of flooding. The matter has been addressed in detail under the section on Policy H5 above.

7.7 **Ecology and Biodiversity**

7.7.1 Local Plan Policy EN2 seeks to ensure the conservation and enhancement of ecological networks and deliver a net gain in biodiversity for all development proposals.

7.7.2 The applicant has submitted an Ecological Appraisal Report which considers the impacts of the proposed development and makes some recommendations to ensure the protection of ecological networks within the site. The report concludes that the proposed development would have no adverse effect on the Biodiversity of the site or wider area and recommends retention of the hedges around the site.

8 **Crime and Disorder**

8.1 It is considered that the proposal would not result in any significant crime and disorder implications.

9 **Human Rights Implications**

9.1 Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.

9.2 It is considered that no relevant Article of that act will be breached.

10 **Conclusion**

10.1 Having regard to the location of the site and the scale and design of the proposal, it is considered that for a temporary 3 year period, the proposal would not significantly detract from the character of the area nor would it impact on the residential amenities of the occupiers in the adjacent settled community.

10.2 Although insufficient information has been submitted to make a full assessment of the appropriateness of the living conditions on the site in respect of noise impact from the A1 and odour impact from the adjacent maggot farm, this needs to be considered against the observations from the site visits and the location of other existing properties in the village. Further, consideration needs to be given to the fact the Council is unable to demonstrate a sufficient supply of traveller pitches and that the alternative living arrangements for the applicant would involve living roadside. Accordingly, it is considered appropriate that any permission should be temporary and personal to the applicant, until the living conditions of the site, including noise and odour impacts, have been fully assessed.
10.3 **RECOMMENDATION:** that the development is Approved subject to the following conditions

1. Within 3 months of the date of this decision, the site shall be laid out in accordance with the approved layout plan and any temporary caravans not specified in the approved layout shall be removed from the land.

   **Reason:** In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The use hereby permitted shall be carried on only by the following: MR SAM SMITH and their resident dependants, and shall be for a limited period being the period of three years from the date of this decision. At the end of three years, the use of the land shall cease, and the site vacated.

   **Reason:** For the avoidance of doubt and to allow the Council to re-assess its planned allocation of gypsy and traveller sites as required by the early Local Plan review.

3. Within 3 months of the site being vacated, or the temporary period of 3 years ending, the land shall be returned to the same condition prior to occupation, including the removal of any caravans, trailers, vehicles, commercial equipment and tools, fencing, new hard standings, drainage equipment and any other commercial or domestic paraphernalia.

   **Reason:** In order to ensure that the land is returned to its former condition, at the end of the temporary permission period.

4. The development hereby permitted shall be carried out in accordance with the following list of approved plans:
   
   i. Proposed site layout plan received 30 November 2020

   **Reason:** To define the permission and for the avoidance of doubt.

5. Within 3 months of the date of this decision, a scheme for the treatment of surface and foul water drainage shall have been submitted to and approved in writing by the Local Planning Authority.

   **Reason:** To ensure the provision of satisfactory surface and foul water drainage is provided in accordance with Policy EN5 of the adopted South Kesteven Local Plan.

6. Within 1 month of the details required to show surface and foul water drainage by condition 4 being approved, the works to provide the surface and foul water drainage shall have been completed in accordance with the approved details.

   **Reason:** To ensure the provision of satisfactory surface and foul water drainage is provided in accordance with Policy EN5 of the adopted South Kesteven Local Plan.
7. No commercial activities must take place within the site, other than those related to the landscaping and tree surgery business operated by the applicant.

Reason: In the interests of visual amenity and to protect the character of the area in accordance with Policy DE1 of the adopted South Kesteven Local Plan.

8. The site shall be laid out in accordance with the approved site layout plan for one residential pitch including one mobile home and one touring caravan. No additional caravans shall be sited or additional plots or pitches provided without planning permission having first been obtained from the Local Planning Authority.

Reason: In order to control the number of permanent residential pitches on the site to protect the character of the area in accordance with Policies DE1 and H5 of the adopted South Kesteven Local Plan.

9. No floodlighting, security lighting or other external lighting shall be installed or operated on the site other than in accordance with details which shall have been previously submitted to and agreed in writing by the local planning authority.

Reason: To protect the visual amenity of the area and limit light pollution in accordance with Policies EN4 and DE1 of the adopted South Kesteven Local Plan.

**Standard Note(s) to Applicant:**

1. In reaching the decision the Council has worked with the applicant in a positive and proactive manner by determining the application without undue delay. As such it is considered that the decision is in accordance with paras 38 of the National Planning Policy Framework.

2. The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For approval and specification details, please contact:

   vehiclecrossings@lincolnshire.gov.uk

**Financial Implications reviewed by: Not applicable**

**Legal Implications reviewed by: Not applicable**