

PLANNING COMMITTEE – 13 OCTOBER 2015

APPLICATION NO DC/15/1627/COU

LOCATION

Smith And Sons Caravan Park
Blackheath Road
Lowestoft
Suffolk
NR33 7JH

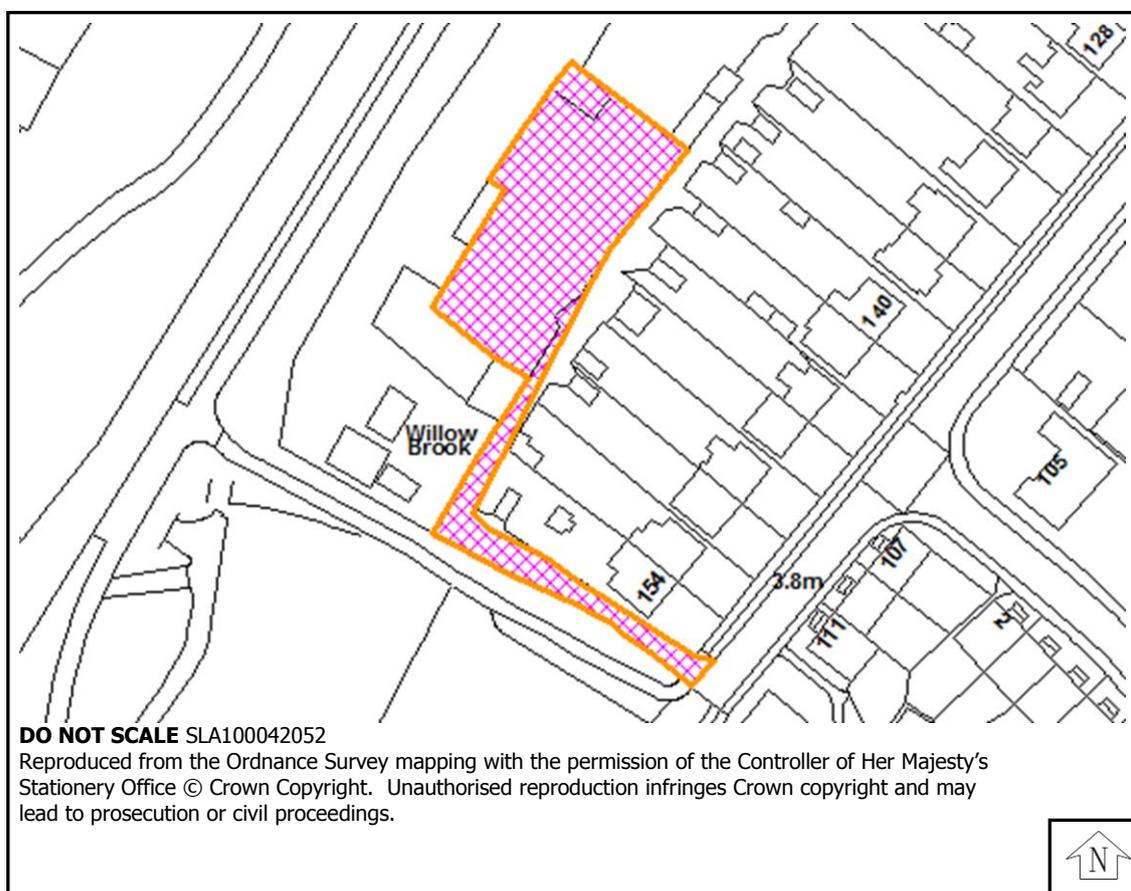
EXPIRY DATE 16 July 2015

APPLICATION TYPE Change of Use

APPLICANT Mr Ken Smith

PARISH

PROPOSAL Use of additional land to increase caravan site numbers from 5 to 12



1.0 SUMMARY

- 1.1 Proposed change of use from a scrap metal yard to seven Gypsy and Traveller pitches. The site is in a flood risk zone and there is no evidence of a sequential test being carried out. A number of neighbour objections have been received, including a 46 signature petition. The recommendation is for refusal on the grounds of a lack of justification for development in a flood risk zone. The application comes before the Planning Committee following a Member call-in.

2.0 SITE DESCRIPTION

2.1 The site is currently a scrap metal working yard. There is an adjacent gypsy and traveller site with five pitches. The scrap metal yard has permission to be operated by the applicant and his dependants only, and only whilst they are resident on the next door traveller site. There are residential properties to the east and southeast. Tom Crisp Way (A12) bounds the site to the west. It has vehicular access via a track to the side and rear of the properties on Blackheath Road. The site is in a flood risk zone.

3.0 PROPOSAL

3.1 It is proposed to change the use of the scrap metal working site to Gypsy and Traveller accommodation comprising seven pitches.

4.0 CONSULTATIONS/COMMENTS

4.1 Neighbour consultation/representations

4.2 A petition signed by 46 people has been submitted raising the following objections:

- Views of the site from Tom Crisp Way and the rear of the properties on Blackheath Road.
- Site notices have not been displayed.
- Traffic will increase and Blackheath Road is not suitable for the extra traffic. The access at the end of Blackheath Road can be very restricted when people park there to walk in Pakefield Park.
- The access track at the rear of Blackheath Road (Blackheath Lane) is not wide enough for caravans to access the site and property may be damaged as a result. This track would need upgrading and surface water drainage provided.
- The site plan shows that the applicant owns part of the Blackheath Lane which is not the case.
- Noise from activity and families on the site would cause disturbance to the rear of the properties on Blackheath Road.
- The proposed development would make properties harder to sell and decrease their value.
- Concerns over access to/from the site in the event of a fire. No fire hydrants within easy access which could put local residents at risk.
- The planning application does not seem to be completed correctly.

4.3 44 Blackheath Rd

- In support
- Their deeds say that their only legal access is from the front of their house

4.4 110 Blackheath Rd

- Devalue property
- Create an undesirable place to live
- Traffic and parking issues
- Concerns over rear access
- Risk of contamination on the site

4.5 112 Blackheath Rd

- Have concerns over: sewage, drainage, odours, rats, traffic noise, property value, and the site is an eye sore.

4.6 134 Blackheath Rd

- Objects due to reduction in property value and risk of contamination on the site

4.7 142 Blackheath Rd

- Views of the site from Tom Crisp Way and the rear of the properties on Blackheath Road.
- Site notices have not been displayed.
- Traffic will increase and Blackheath Road is not suitable for the extra traffic. The access at the end of Blackheath Road can be very restricted when people park there to walk in Pakefield Park.
- The access track at the rear of Blackheath Road (Blackheath Lane) is not wide enough for caravans to access the site and property may be damaged as a result. This track would need upgrading and surface water drainage provided.
- The site plan shows that the applicant owns part of the Blackheath Lane which is not the case.
- Noise from activity and families on the site would cause disturbance to the rear of the properties on Blackheath Road.
- The proposed development would make properties harder to sell and decrease their value.
- Concerns over access to/from the site in the event of a fire. No fire hydrants within easy access which could put local residents at risk.
- The planning application does not seem to be completed correctly.

4.8 144 Blackheath Rd

- Objects due to harm to view, increased noise, increased traffic, and risk of contamination on the site.
- Views of the site from Tom Crisp Way and the rear of the properties on Blackheath Road.
- Site notices have not been displayed.
- Traffic will increase and Blackheath Road is not suitable for the extra traffic. The access at the end of Blackheath Road can be very restricted when people park there to walk in Pakefield Park.
- The access track at the rear of Blackheath Road (Blackheath Lane) is not wide enough for caravans to access the site and property may be damaged as a result. This track would need upgrading and surface water drainage provided.
- The site plan shows that the applicant owns part of the Blackheath Lane which is not the case.
- Noise from activity and families on the site would cause disturbance to the rear of the properties on Blackheath Road.
- The proposed development would make properties harder to sell and decrease their value.
- Concerns over access to/from the site in the event of a fire. No fire hydrants within easy access which could put local residents at risk.
- The planning application does not seem to be completed correctly

4.9 148 Blackheath Rd

- The scrap metal works has led to an unacceptable increase in traffic and caused permanent obstruction and inhibits the residents access to use the reserved way
- The increase in caravan numbers would increase disturbance, noise, pollution, traffic, unauthorised development and encampments.
- The applicant uses several residents' addresses without permission and new occupants will increase potential for private and commercial business use.
- The proposed caravan site raises health and safety and security issues for nearby residents.
- The proposed development will fail to attract future investment and will not spearhead regeneration of the area.
- The proposed site would not comply with required distances between caravans and licensing requirements.

- There are health and safety risks and unauthorised business activities on the site and unauthorised parking nearby.
- The reserved way is in poor condition; inadequately lit; there is no landscaping; it does not meet health and safety requirements; and is not maintained.
- The site is in flood zones 2 and 3.
- It is understood that the land to the rear of Blackheath Rd was designated for garden allotment purposes and is inappropriate for permanent or temporary dwellings.
- The treatment of sewage is a health and safety concern.
- Potential impact on the surrounding woodland and wildlife

4.10 150 Blackheath Rd

- Objects due to concerns over rear access and suitability of the scrapyard site for development.

4.11 115 Carlton Road

- Views of the site from Tom Crisp Way and the rear of the properties on Blackheath Road.
- Site notices have not been displayed.
- Traffic will increase and Blackheath Road is not suitable for the extra traffic. The access at the end of Blackheath Road can be very restricted when people park there to walk in Pakefield Park.
- The access track at the rear of Blackheath Road (Blackheath Lane) is not wide enough for caravans to access the site and property may be damaged as a result. This track would need upgrading and surface water drainage provided.
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CONSULTEES

4.12 **WDC Environmental Health - Contaminated Land**

The current use of the site is as scrap metal dealers and, in addition, the site was used for the breaking of vehicles. As such there are good reasons to anticipate that the site will be impacted with a variety of contaminants and the planning application form has been incorrectly completed at box 14. The answers to the question of "Land where contamination is suspected for all or part of the site" must be "yes" and not "no". Also the proposal is for a change of use to residential so the answer to the question "A proposed use that would be particularly vulnerable to the presence of contamination" must also be "yes" and not "no". Had these two questions have been answered correctly the applicant would have been prompted to have submitted the appropriate contamination assessment. I cannot find that any contamination assessment has been submitted by the applicant so I would object to the use of the site for residential purposes until such time as the applicant has proven that the site is suitable for such a use.

4.13 The Local Planning Authority must ensure that the applicant investigates and characterises contamination at the site and, if required, remediates the site to a level which is suitable for the proposed residential end use. These works must be carried out before the site is occupied for residential purposes. I would advise the Local Planning Authority to impose the model contaminated land conditions.

- 4.14 **WDC Environmental Health – Licensing**
No response received.
- 4.15 **Anglian Water**
No response received.
- 4.16 **Suffolk County - Rights Of Way**
Please accept this email as confirmation that we have no comments or observations to make in respect of this application affecting any public rights of way.
- 4.17 Please note, there may also be public rights of way that exist over this land that have not been registered on the Definitive Map. These paths are either historical paths that were never claimed under the National Parks and Access to the Countryside Act 1949, or paths that have been created by public use giving the presumption of dedication by the land owner whether under the Highways Act 1980 or by Common Law. This office is not aware of any such claims.
- 4.18 **Suffolk County - Highways Department**
Notice is hereby given that the County Council as Highway Authority recommends that any permission which that Planning Authority may give should include the conditions shown below:
- 4.19 Condition: Before the development is commenced details of the areas to be provided for the manoeuvring and parking of vehicles including secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- Reason: To ensure the provision and long term maintenance of adequate on-site space for the parking and manoeuvring of vehicles, where on-street parking and manoeuvring would be detrimental to highway safety.
- 4.20 Condition: No light from the proposed development shall not be visible from any highway, either local or distant, in order to avoid disability or discomfort glare for either pedestrians or motorists.
- Reason: In the interests of highway safety and in order to avoid disability or discomfort glare for either pedestrians or motorists.
- 4.21 **SCC Waste Disposal**
No comments received.
- 4.22 **Environment Agency**
We have reviewed, as submitted, the application and supporting documents and advise the Council that we have no objection to the development proposal subject to the recommended condition detailed below relating to flood risk being appended to the granting of any planning permission.
- 4.23 Flood Risk
Our Flood Map shows the proposed development is located in tidal Flood Zone 2, defined in Table 1 in the Flood Risk and Coastal Change section of the Planning Practice Guidance (PPG), Reference ID: 7-065-20140306 as having a medium probability of flooding.
- 4.24 Although the site is adjacent to the fluvial Kirkley Stream the predominant risk posed to the site is tidal. The PPG states that highly vulnerable uses should not be permitted within Flood Zone 3, and should only be deemed appropriate within Flood Zone 2 if the exception test is passed. Paragraph 103 of the National Planning Policy Framework (NPPF) requires the submission of a site-specific Flood Risk Assessment (FRA) which demonstrates a

development will be safe for its lifetime, without increasing flood risk elsewhere, and will reduce the overall flood risk where possible. An FRA prepared by Michael Thomas Consultancy LLP referenced 1281 Rev A, dated March 2013 has been submitted in support of the application. This FRA has not been revised since the previous application submitted in 2012. However the modelled data used within the FRA is still correct.

4.25 We are satisfied that the FRA provides you with the information necessary to make an informed decision. We therefore have no objection to the planning application. Although we are not raising an objection you should ensure that you consider the development and it's users to be safe for its lifetime prior to any approval. We elaborate on our position in the Technical Appendix below which you should read. The proposed development will only meet the NPPF if the following measures, as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission granted.

4.26 Condition The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) undertaken by Michael Thomas Consultancy LLP referenced 1281 Rev A, dated March 2013 and the following mitigation measures detailed within the FRA:

The mobile homes shall be securely anchored to the ground in order to prevent them becoming buoyant, should the site flood.

Reason: To ensure that the development will not result in any increased flood hazard as a result of large floating debris.

4.27 Foul Water Disposal

We note that box 11 of the application form has not been completed to indicate how foul sewage is to be disposed of from the site. We are disappointed at this omission and consider planning permission should not be granted until a viable method of disposal, preferably to the main sewer network – this is closely adjacent to the site - has been disclosed to the Council. Given the water bodies at risk from pollution in this location this issue should clearly be satisfactorily resolved before any planning permission is granted.

4.28 **Suffolk County Council - Gypsy and Traveller Liaison Officer**

No other gypsy and traveller pitches available nearby.

4.29 **Suffolk Fire and Rescue Service**

Access to buildings for fire appliances must meet with Building Regulations requirements. Suffolk Fire and Rescue Service requires a minimum carrying capacity for hard standing for pumping/high reach appliances of 15/26 tonnes, not 12.5 tonnes as detailed in the Building Regulations 2000 Approved Document B, 2006 Edition, incorporating 2010 and 2013 amendments.

No additional water supply for fire fighting purposes is required.

4.30 **WDC Environmental Health - Private Sector Housing**

Whilst the site is currently licensed, the PSH department has not been consulted on previous development and as such, the site is operating outside of original licence conditions (number of vans). PSH does not oppose the development of the site, but any increase in numbers or material modifications to the layout and operation of the site should be in accordance with the latest model standards for residential caravan parks.

4.31 Even if planning permission is not granted, the site will still require a modified site licence to reflect the currently/newly permitted number and occupancy of vans on site, and will also need to comply with the new requirements of the Mobile Homes Act 2013.

SITE NOTICES

- 4.32 The following site notices have been displayed:
General Site Notice Reason for site notice: Change of Use, Date posted 08.07.2015
Expiry date 28.07.2015

RELATED APPLICATIONS

Reference No	Proposal	Decision	Date
DC/12/1365/FUL	Provision of 3 No. mobile homes, 2 no. tourers and an amenity block	Application Permitted	02.09.2013
DC/12/1159/COU	Retrospective Application - Working area (scrap metal dealing) for caravan site for gypsies (adjoining site)	Application permitted	02.09.2013

5.0 PLANNING POLICY

CS12 Gypsy and Traveller Accommodation (Adopted Core Strategy, January 2009)
National Planning Policy Framework (March 2012)
Planning Policy for Traveller Sites (August 2015)
Technical Guidance to the National Planning Policy Framework (August 2015)

6.0 PLANNING CONSIDERATIONS

Flood risk

- 6.1 The site is currently in use as a scrap metal working yard and the proposal would see this area used for gypsy and traveller pitches, this use is considered a more vulnerable use when flooding is assessed. National Planning Policy Guidance puts caravans and mobile homes in the 'highly vulnerable' class. The flood risk assessment finds that this site is in flood risk zone 2 (medium risk) and the predominant risk is through tidal flooding.
- 6.2 The National Planning Policy Framework (NPPF) requires the 'sequential test' to be applied to applications for change of use to a caravan site or mobile home site in a flood risk zone. The aim of the sequential test is to steer new development to areas with the lowest probability of flooding. In this case other reasonably available sites in flood zone 1 and in the area should be considered before considering sites in flood zone 2. There has been no evidence submitted to show that other sites have been considered and therefore the application can not be considered to pass the sequential test.
- 6.3 The Environment Agency has not raised an objection on flood risk grounds (subject to conditions). However, their role does not apply planning policy, therefore an absence of an Environment Agency objection does not automatically mean that the development meets planning policy requirements and permission should be granted.

Planning Policy for Traveller Sites

- 6.4 Planning Policy for Traveller Sites says that the Local Planning Authority (LPA) must consider the following when assessing applications for traveller sites:
1. The existing level of local provision and need for sites
 2. The availability (or lack) of alternative accommodation for the applicants
 3. Other personal circumstances of the applicant
 4. 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

- 6.5 With regards to point 1, the Gypsy and Traveller Accommodation Needs Assessment (GTANA) for Waveney identified the need for three additional pitches for the period up to 2017. A planning application for four additional pitches at a Gypsy and Traveller site in Kessingland was approved in 2014 and the indications are these pitches will be built shortly. These pitches will satisfy the early need identified in the GTANA. In respect of points 2 & 3, the applicant lives on the adjacent site which provides five pitches for him and his family and therefore does not have a personal need for the proposed seven additional pitches. Regarding point 4, this is an unallocated site and therefore policy CS12 from the Core Strategy applies. This states that Gypsy and Traveller sites should be outside of flood zones 2 and 3.
- 6.6 Planning Policy for Traveller Sites goes on to say that if a LPA can not 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. As covered above, the need over a five year period is considered to be met.

Highways/Access

- 6.7 Concerns have been raised by nearby residents about the potential impact on traffic and parking in the area. The track is narrow at the rear but is of sufficient width for vehicular use. The track is privately owned and responsibility for maintenance will lie with the owner. Parking spaces are provided on the site and SCC Highways have raised no objection, subject to the use of recommended conditions. It is not considered that there are sufficient grounds for refusal on this basis.

Appearance

- 6.8 The site is between Tom Crisp Way and the rear of the properties on Blackheath Road. It is not visible from Blackheath Road and is well screened by greenery in views from Tom Crisp Way. It is not considered that the proposal would be detrimental to the appearance of the site.

Noise

- 6.9 Noise concerns have been raised by neighbours. The proposed use is a residential use which is compatible with the surrounding dwellings. There is nothing to suggest that noise would be generated from the proposed development which would be out of character with the surroundings. In the event that noise nuisance did occur, there is Environmental Protection legislation in place to deal with the matter.

6.10 Other Matters

- 6.11 Views are not protected in planning law. Property values are not a material planning consideration. Some residents have expressed concerns over future events if the application were to be approved, but the LPA can not deal in speculation. The agent has confirmed that the land in the red outline is in the ownership of the applicant. Suffolk Fire and Rescue Service have no objection to the proposal. Contamination concerns have been raised, but these could be dealt with using planning conditions. Increased residential use in the area would increase natural surveillance and security of the area. There is no evidence to suggest that health and safety matters would arise as a result of the development. Full foul water drainage details could be required by planning condition. There is no evidence of protected species or wildlife on the site. Separation distances between caravans are not a planning issue.

7.0 CONCLUSION

- 7.1 The justification for the development in a flood risk zone is a key planning policy issue. There is no evidence to show that a sequential approach to site selection for this development has taken place and this approach conflicts with the requirements of the NPPF. The applicant's personal accommodation needs have been met by the approved site next door and there is no outstanding need for Gypsy and Traveller sites locally. This is an unallocated site and its use for further Gypsy and Traveller pitches would conflict with CS12 and Planning Policy for Traveller Sites. No other significant policy conflicts have been identified.

RECOMMENDATION

- 8.1 That planning permission be **REFUSED**:

The application is refused due to the failure to meet the requirements of Core Strategy policy CS12, principally with regard to requirement for sequential test flood risk testing which results in a failure to demonstrate justification for the proposed development in a flood risk zone.

BACKGROUND INFORMATION: See application ref: DC/15/1627/COU at www.waveney.gov.uk/publicaccess

CONTACT Dickon Povey, Senior Planning and Enforcement Officer, Dickon.povey@eastsoffolk.gov.uk