

PLANNING COMMITTEE DATE: 16 November 2022

APPLICATION NO: F/YR21/1037/F

SITE LOCATION: Land South of Millcroft, Mill Lane, Gorefield

UPDATE

Further Representations Received

Two further representations have been received from local residents. The first of these raises the issue of an inaccuracy in the report.

Paragraph 2.1 of the main report contains an error concerning the site measurements. Measuring from the electronically held drawings on the Council's document management system, the red line area of the planning application boundary measures approximately as follows;

Depth east to west = 134 metres approx..

Average width across north to south = 70 metres approx..

The application has been assessed taking into account the red line application site boundary. The whole of the site area was viewed by the case officer when visiting and entering the site in April 2022 (when the site photos were also taken)

The second is reproduced below;

We live in Mill Lane about 50yds or so from this site and have been at our current address for 11 years. We objected to this application last year and are naturally disappointed to hear that approval for it has been recommended. We still have the same concerns that we originally expressed over 12 months ago.

Much of the Case Officer's decision appears to be based on various planning rules, regulations and previous case histories, and is something beyond the ability of many lay people to contest or contradict. However some of the issues are subjective and we still believe they may not have been given sufficient consideration. This is agricultural land and a change of use will lead to increases in noise, traffic and light pollution, and will also have a detrimental effect on wildlife and visual amenity.

However, another concerning issue is the setting of a precedent. Anyone driving or walking along Mill Lane would soon be aware of the many different parcels of land that could easily be bought up and potentially lead to a repeat of the situation we face now.

Finally there is the issue of the covenant, which as we understand, prohibits the site being used for residential purposes. We know the council don't give any

weight to covenants when considering planning matters, but this covenant has been contravened since September 2021 when the site was first occupied. For this reason we believe that to grant this application would send out an entirely wrong signal. It is interesting to note that Gorefield Parish Council mentioned this covenant when they advised that they could not support this application.

Officer Comment

The issues raised reiterate issues that have already been raised and addressed in the main report. The issue of agricultural land is addressed on page 179, as are issues of precedent, lighting and noise. Conditions are proposed to be imposed to ensure that external lighting cannot be erected unless first approved by the LPA and landscape scheme is required to be submitted, both of which will aid wildlife as well as amenity concerns. It is considered that the key issues are considered in the main report. There is always an element of subjectivity in officer recommendations but the recommendation is based upon the primacy of the development plan (Fenland Local Plan) and other material considerations including the national Planning Policy for Gypsies and Travellers and the fact that FDC does not have an up to date GTNA.

The neighbours raise the issue of precedent and the fact that many other parcels of land could be bought up. Whether land can be bought up is a matter as to whether an owner decides to sell it which is out of the control of the planning authority. Any other proposals that might require planning permission would need to be considered on their merits.

The issue of a private covenant between the sellers of this land and the applicants (now owners of the land) is dealt with in the main report but to reiterate; This is not a planning matter but purely a private legal matter between the parties involved and is not a material planning consideration.

Legal Update

Since the writing of this report, there has been an important Court of Appeal case (Lisa Smith vs Sec.of State et al [2022] EWCA Civ 1391) dated 31 October 2022, which will be a material planning consideration with regards to application of the PPTS. The appellant's case was upheld and in short, the Judgement concluded that the PPTS is, at least in parts, discriminatory against gypsies and travellers.

In the case of the current application, the LPA is not disputing that the applicants are gypsies/travellers, and it is considered that the PPTS has not been applied to the consideration of this case in a restrictive manner. To date there has been no response from the government with regards to this Judgement. Taking this

Judgement into account, it does not alter the main officer report or the recommendation.

Resolution: No change to the recommendation which is to approve the application subject to conditions as per Section 12, pages 180 – 182 of the main agenda