

REPORT SUMMARY

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| REFERENCE NO - 15/502716/FULL | | | |
| APPLICATION PROPOSAL Change of use of land to single gypsy pitch and associated development | | | |
| ADDRESS Breach Farm Paddocks Land North-east Of Breach Farm Bungalow Breach Lane Upchurch Kent ME9 7PE | | | |
| RECOMMENDATION Grant permanent permission | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION The application would provide a permanent unit of occupation for a gypsy family, within a sustainable location, and without giving rise to serious amenity concerns or harm to the character or amenity of the countryside. | | | |
| REASON FOR REFERRAL TO COMMITTEE Objection from Ward Member and local objections. | | | |
| WARD Hartlip, Newington & Upchurch | PARISH/TOWN COUNCIL Newington | APPLICANT Mr M Love AGENT Patrick Durr | |
| DECISION DUE DATE 08/07/15 | PUBLICITY EXPIRY DATE 09/06/15 | OFFICER SITE VISIT DATE 15.05.2015 | |
| RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): | | | |
| App No | Proposal | Decision | Date |
| SW/87/1388 | Construction of agricultural dwelling in association with use of land as smallholding. | Refused. | 11.12.87 |
| Refused as the construction of single, open-market dwellings is contrary to policies of rural restraint. | | | |

1.0 BACKGROUND

- 1.01 Members will recall this scheme from the previous meeting and the recent site meeting, and note that it falls to be considered under the Planning Working Group items on this agenda. The application seeks permission for change of use of the land to a single gypsy pitch with associated development, including the stationing of one static caravan, one touring caravan, an amenity building, and shipping container.
- 1.02 Representations from the Parish Council and a number of local residents have highlighted recent changes to the national Planning Policy for Traveller Sites (PPTS) which came into force in August this year. The main aims of the PPTS now are:

“The Government’s overarching aim is to 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.” (para 3 PPTS)

To help achieve this, Government’s aims in respect of traveller sites are:

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development [NB: there is no Green Belt in Swale]*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

1.03 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

1.04 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- 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”*

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). Members might like to note that the mini paragraph above was added in the 2015 re-issue of PPTS.

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS).

Members might like to note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a 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 permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS, and the application site is not within any formal designation.

Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“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 as such.”

- 1.05 The changes to the PPTS as outlined above do not, in my opinion, materially affect the circumstances of this application or the way in which the Council should consider it. And, given that the PPTS is uncertain in regards to the need for sites as assessed by the Council’s Gypsy and Traveller Accommodation Assessment (GTAA), the application should not be assessed in terms of the need for new sites, but under the general provisions of the adopted (Swale Borough Local Plan 2008) and emerging Local Plan (Bearing Fruits 2031: 2014 Publication version).
- 1.07 Furthermore, regardless of any need identified by the GTAA, and even if the Council can demonstrate a 5-year supply, this site scores so highly on the Council’s adopted site assessment methodology such that officers still recommend that permanent permission be granted.
- 1.07 I therefore consider it appropriate for the Council to support the application, and consider a grant of permanent permission to be reasonable in this instance.

2.0 FURTHER REPRESENTATIONS

- 2.01 The comments of Newington Parish Council have been received. They object on the following summarised grounds:
- Newington and Upchurch have a high number of gypsy / traveller sites compared to the rest of the Borough;
 - The site was not included within the GTAA call for sites;

- The proposal is contrary to policy and only temporary permission should be considered;
- Highway safety and amenity;
- The applicant has not demonstrated that they have considered other sites;
- Impact on listed buildings;
- Impact on ecology;
- Landscape / visual impact;
- Residential amenity of neighbours;
- Unsustainable location;
- No need for the applicant to live on site; and
- The red line area is larger than necessary.

2.02 The Kent County Council Biodiversity officer notes that the submitted ecological scoping report indicates the potential for reptiles on the site, and raises no objection subject to the submission of a reptile survey (from which any mitigation measures, if necessary, can be considered). ODPM Circular 06/2005 (Biodiversity And Geological Conservation – Statutory Obligations And Their Impact Within The Planning System) states that such surveys should be carried out prior to the granting of planning permission unless exceptional circumstances indicate otherwise. In this instance, however, the submitted survey only indicates the *potential* for reptiles due to the nature of the site (which is a similar position to swathes of land within the Borough) and not their actual presence, and the likelihood of there being reptiles is considered to be low. Furthermore the need for gypsy and traveller pitch provision within the Borough is well-known, and officers consider this to constitute an exceptional circumstance in this instance.

2.03 In light of the above I consider it appropriate to amend the conditions from the original report to grant permission subject to the submission and formal agreement of a reptile survey and mitigation strategy (if necessary) prior to any development or occupation of the site (condition 2 below). I have also extended the usual three-year compliance to four years in light of the fact that reptile surveys now can't take place until April 2016, and the applicant will therefore lose several months of their permission before being able to commence any works on site.

2.04 Further to local objections Kent Highway Services clarify that they have considered the correct site, and do not have any objections.

3.0 CONCLUSION

3.01 Whilst the PPTS has been updated I do not consider that the changes to its wording materially affect the course of this application. It remains a small site for a single gypsy family, in a relatively sustainable location and with no serious harm to local amenity. Furthermore it is evident that whilst the Council can demonstrate a five-year supply this is misleading in that the unoccupied pitches are not necessarily available to individuals other than members of the wider group already occupying those sites.

3.02 Therefore I consider that the original recommendation for approval should be retained, and that permanent permission should be granted.

4.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than the expiration of four years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) No development shall take place and the site shall not be occupied until a reptile survey, mitigation strategy (if required), and site layout drawing (that takes into account any requirements / recommendations of the mitigation strategy) has been submitted to and agreed in writing by the Local Planning Authority. Any required mitigation works shall be carried out in accordance with the agreed details.

Reasons: To minimise potential harm to wildlife.

- (3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (4) No more than one static caravan, one touring caravan, one amenity building and one shipping container shall be stationed on the site at any one time, as shown on drawing 295/14/04 A, received 23 March 2015.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (5) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reasons: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- (6) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of preventing light pollution and preserving rural amenity.

- (7) Within 6 months from the date of this permission the area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained in accordance with details to be agreed in writing by the Local Planning Authority, and shall thereafter be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reasons: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (8) The use hereby permitted shall cease and any caravans, utility blocks, sheds, other structures, hard standings, fences, materials and equipment on the site and connected with the use, together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:
- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage and enhance wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. In addition, details of a surface water drainage scheme and details of the external finishing materials to the utility buildings shall be submitted within 3 months of the date of this decision.
 - (ii) within 11 months of the date of this decision the landscaping and drainage schemes and schedule of finishing materials shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State.
 - (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
 - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme and the drainage scheme shall have been implemented.

Reasons: In the interests of the visual amenities of the area, highway safety and amenity, and encouraging biodiversity.

- (9) Subject to any alterations to the layout required by condition (2) above, no development shall take place other than in accordance with drawings 295/14/03 A, 04 A, 05 A and 06 A.

Reasons: For the avoidance of doubt.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the application was acceptable as submitted and no further assistance was required.

Case Officer: Ross McCardle

Tabled item – Land at Breach Lane – Planning Working Group
24 September 2015

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.