

<b>2.2 REFERENCE NO - 17/501399/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Variation of condition 1 of 14/504681/FULL (Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room) - to make permission permanent			
<b>ADDRESS</b> Ramblin Rose Greyhound Road Minster-on-sea Kent ME12 3SP			
<b>RECOMMENDATION</b> Grant			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The Council has, by way of recent appeal decisions on three neighbouring sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation is acceptable here as a matter of principle, and the proposed pitches are therefore not considered to be sufficiently harmful to justify refusal of planning permission.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council objection.			
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN</b> Minster-On-Sea	<b>COUNCIL</b>	<b>APPLICANT</b> Mr Danny Penfold <b>AGENT</b> Philip Brown Associates
<b>DECISION DUE DATE</b> 03/05/17	<b>PUBLICITY EXPIRY DATE</b> 03/05/17		
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/504681/FULL	Change of use of land to gypsy residential site for the stationing of two static caravans, two tourers, one day room.	Granted	05.04.16
Temporary permission, for a period of one year, was granted to enable the applicants time to find alternative accommodation.			
SW/11/0522	Remove condition (1) of SW/07/1198 to allow permanent use of site for residential/stationing of two mobile homes for gypsies.	Refused	09.09.11
Planning permission was refused on the grounds that the site was not considered suitable for permanent Gypsy or Traveller accommodation, and that the Council was addressing the need for sites through the Corporate Policy site selection process.			
SW/07/1198	Change of use to residential. Stationing of two mobile homes for gypsies. Erection of a utility room.	Granted	25.04.08
Temporary planning permission, for a period of three years, was granted as the Council was not able to direct the applicant towards other, more suitable, sites.			

**Members should note that applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, 16/505356/FULL, and 17/501399/FULL all seek permanent permission for neighbouring Gypsy / Traveller sites on Greyhound Road. As the considerations**

for each application are very similar, in the interest of brevity, a short introduction is presented for each, but a single policy and appraisal section is presented at the end.

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 Rambling Rose is a residential Gypsy site situated towards the southern end of Greyhound Road; an unmade road situated within the countryside at Minster, approx. 700m east of Scocles Road. The site measures approx. 60m x 25m. The mobile homes and utility room are located at the northern end of the site, whilst existing trees and hedges along the boundaries help to partially screen the site from the Lower Road.
- 1.02 The mobile homes are of a standard, manufacturer's design, whilst the utility room has a brick skin, flat felt roof, and measures approximately 4m x 3.3m and 2.8m high.
- 1.03 Members may be aware that Greyhound Road features a number of Gypsy / Traveller sites along its western and southern sides, and a single residential dwelling known as the Shack.
- 1.04 The site is occupied by local gypsies who are known to planning officers.

### **2.0 PROPOSAL**

- 2.01 The application seeks variation of condition (1) of planning permission 14/504681/FULL to allow permanent residential use of the site by a Gypsy family.
- 2.02 No physical changes are proposed on site.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 None

### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The relevant policy considerations are noted at item 2.5, which shares the same concerns.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Minster Parish Council objects to the application:

*“Notwithstanding the Inspector's recent decision, the grounds for Minster-on-Sea Parish Council's continued objection is that the proposal does not comply with the existing adopted Swale Borough Local Plan where the protection of the open countryside is considered paramount and no unauthorised development is permitted. Although, the Parish Council's acknowledges the requirement for gypsy and traveller accommodation in general, it believes the Department for Communities and Local Government (DCLG) is not providing local authorities like Swale with enough support to achieve this. To resolve this, the Parish Council will be making further representations to the DCLG on account of its perception that inequality exists within the planning policy framework where it will ask the DCLG to make it compulsory to provide sites within the builtup area where a need has been properly identified and enough investment to do this.”*

**6.0 CONSULTATIONS**

- 6.01 Southern Water has no comments.
- 6.02 The Council's Environmental Health Manager has no comments.
- 6.03 The Lower Medway internal Drainage Board have provided a copy of the byelaws relating to the drainage ditch to the west of the site.

**7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 The above-noted historic applications are relevant.
- 7.02 Of significant relevance are the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree. The Inspector allowed all three appeals and granted permanent permission for residential gypsy use of those sites, which neighbour the current application site. They are discussed in greater detail in the appraisal section.

**8.0 APPRAISAL**

- 8.01 The merits of this case, as well as SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL, are considered in a single appraisal section at item 2.5 of the agenda.
- 8.02 An assessment under the Habitat Regulations is appended to the end of this report, screening the site out of the need to provide contributions in accordance with the Council's agreed procedure for smaller sites.

**9.0 CONCLUSION**

- 9.01 Whilst the Council has historically maintained a firm stance in regards the unacceptability of Greyhound Road for permanent Gypsy / Traveller sites, the recent appeal decisions for Blackthorne Lodge, The Hawthorns, and The Peartree make it clear that this stance should not be pursued further. The site provides Gypsy accommodation that counts towards the Council's pitch provision need, suits the applicant's needs, and does not give rise to significant harm to the character or amenity of the countryside or serious harm to residential amenity.
- 9.02 Taking the above into account I recommend that permanent permission should be granted.

**10.0 RECOMMENDATION – GRANT** Subject to the following conditions:

- (1) 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.

- (2) No more than two static caravans and two touring caravans shall be stationed on the site at any one time.

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.

- (3) 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.

- (4) 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.

- (5) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

- (6) The areas shown on the submitted layout as vehicle parking spaces shall 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 these reserved parking spaces.

Reasons: To ensure the use does not prejudice conditions of highway safety and in accordance with Policy T3 of the Swale Borough Local Plan 2008.

### **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 considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

- 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.

### Habitat Regulations Assessment.

This HRA has been undertaken without information provided by the applicant.

The application site is located approximately 1km to the north of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a

threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.