

2.3 REFERENCE NO - 16/505355/FULL			
APPLICATION PROPOSAL Variation of Condition 7 of planning application SW/11/0420 (Change of use for the stationing of one mobile home and the erection of a utility room for use by a gypsy family) - to retain change of use on permanent basis, or for a further temporary period			
ADDRESS Ivygate, Greyhound Road, Minster-on-sea, Kent, ME12 3SP.			
RECOMMENDATION Grant			
SUMMARY OF REASONS FOR RECOMMENDATION 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.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Sheppey Central	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr William King AGENT Heine Planning Consultancy
DECISION DUE DATE 18/08/16	PUBLICITY EXPIRY DATE 18/10/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/11/0420	Change of use for the stationing of one mobile home and the erection of a utility room for use by a gypsy family.	Approved	25.06.12
The Council granted temporary permission for a period of three years as we were unable 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 Ivygate is a residential gypsy / traveller pitch situated on the western side of Greyhound Road. It is roughly rectangular in shape and extends to approximately 25m wide by 47m deep. The site is occupied by Mr William King, who is a local gypsy known to planning officers.
- 1.02 The front of the site is given over to vehicle parking, with a static caravan and utility shed on the rear half of the plot. A timber close-boarded fence runs along the boundary with Greyhound Road, and there is established tree and hedgerow planting

along the rear boundary with the agricultural fields. The site is bordered by Hawthorns to the north and Three Palms to the south.

- 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 applications to vary condition 7 of planning permission SW/11/0420 to allow permanent residential use of the site by a gypsy family.

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 None received.

6.0 CONSULTATIONS

- 6.01 Minster Parish Council object to the application, and their comments are attached in full as an appendix to this report:

- Contrary to adopted rural restrain policies;
- Harm to visual amenity;
- Isolated location, contrary to advice of the PPTS; and
- Cumulative impact on settled community

- 6.02 No other representations received.

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, 16/505356/FULL, and 17/501399 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.

Reason: 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 one static caravan and one touring caravan shall be stationed on the site at any one time.

Reason: 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, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: 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.

Reason: In the interests of preventing light pollution.

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

Reason: In the interests of highway safety and convenience.

- 6) The use hereby permitted shall cease and any caravans, shed, 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, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- (ii) within 11 months of the date of this decision the landscaping scheme 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

Reason: In the interests of the visual amenities of the area.

- 7) Within one month of the date of this decision, the applicants shall submit a surface water drainage strategy to the Local Planning Authority for approval demonstrating that surface water drainage discharge into the local watercourse is attenuated for the 1:100 year return storm with a limited discharge of 7 litres per second per hectare. The drainage strategy shall be implemented within one month of approval and shall thereafter be retained throughout the duration of the use of the site.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 8) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 9) The area shown on the submitted layout as vehicle parking or turning space 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 this reserved parking space.

Reason: To ensure the use does not prejudice conditions of highway safety.

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.