

2.4 REFERENCE NO - SW/14/0530			
APPLICATION PROPOSAL			
Siting of two mobile homes with associated utility blocks, with parking for cars and two touring caravans for gypsy family and erection of stables.			
ADDRESS The Barn Yard, Land Adjoining Blackthorne Lodge, Greyhound Road, Minster, Sheerness, Kent, ME12 3SP			
RECOMMENDATION Grant			
SUMMARY OF REASONS FOR RECOMMENDATION			
The Council has, by way of recent appeal decisions on three sites at Greyhound Road, been given very clear direction by the Planning Inspector that provision of Gypsy and Traveller accommodation on Greyhound Road is acceptable 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 Mrs Patience Brazil AGENT Mr Martin Foad
DECISION DUE DATE	PUBLICITY EXPIRY DATE 24/03/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
15/502191/FULL, 15/502237/FULL, 15/503278/FULL	Removal of condition (7) of planning permissions SW/14/1414 (The Peartree), SW/11/1415 (Blackthorne Lodge), and SW/11/1430 (The Hawthorns) to allow permanent use of land as residential caravan sites.	Appeals allowed.	21.02.17
The Council granted further temporary permission for a period of one year, following previous three-year temporary consents, at the three sites. The applicants appealed against the temporary nature of the consents, and the Inspector allowed all three appeals, granting permanent permission for residential use of these three sites on Greyhound Road. The decisions have been reviewed by the Council's barrister, and there are no grounds on which to challenge them. This is discussed further in the appraisal section.			

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.

1.0 DESCRIPTION OF SITE

- 1.01 The Barn Yard is a gypsy site situated on Greyhound Road to the east of Minster and west of Brambledown. It is roughly L-shaped, sits on the southern end of the road, and measures approximately 45m wide x 62m deep. It is largely covered in shingle and contains 2 static caravans, 2 tourers and a wooden utility building. A timber fence runs along the front boundary.
- 1.02 The site sits immediately to the east of Blackthorne Lodge, and to the rear of an existing barn / stable building at the southern end of the road. Two static caravans have been erected along the western site boundary.
- 1.03 Prior to occupation by the applicant in 2014 the land was an open field that had, in the past been used for grazing in association with the existing barn / stables.
- 1.04 The site is occupied by local gypsies who are known to planning officers.

2.0 PROPOSAL

- 2.01 The application seeks permission for use of the land as a residential gypsy site, including the stationing of 2 static caravans, parking for 2 touring caravans, and the erection of 2 utility buildings / dayroom.
- 2.02 The application also proposes the erection of a stable building to the side of the existing barn and stables. This will measure approximately 9.3m wide x 4m deep x 3.3m high to the ridge, and will be of a standard design with an overhanging roof to the front. The covering letter states:

“Each site will have a modern mobile home with an associated utility block and services. The sites will also have their own allocated parking areas which will be surfaced in reclaimed road planings / scalpings. Drainage from the accommodation will go to a sealed cesspool...”

The utility blocks, as indicated, will be constructed from facing yellow stock brickwork and black stained / painted boarding, with Eternit slates to the roof and standard timber joinery for the doors and windows.”

- 2.03 The applicant, Mrs Brazil, is from a local gypsy family that is known to officers, and have lived within Swale for many years. Her parents live on the adjacent site (Blackthorne Lodge) and the application site will be occupied by the applicant and her family on plot 1, and her sister on plot 2.

3.0 SUMMARY INFORMATION

	Existing
Site Area (ha)	0.44 (1.08 acres)
No. of static caravans	2
No. of touring caravans	2

4.0 PLANNING CONSTRAINTS

- 4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 To avoid duplication a combined policy section has been produced for applications SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL, and is presented at item 2.5.

6.0 LOCAL REPRESENTATIONS

- 6.01 The application was advertised by way of a site notice, and letters to local residents.
- 6.02 Two letters of objection have been submitted by local residents, commenting:
- The scale of sites on Greyhound Road now dominates the settled community;
 - Work has already been carried out on site;
 - The site is within a flood plain [NB: the site is outside of the flood zone];
 - Planning permission was previously refused for a dwelling and smallholding on the site [NB: this relates to an enforcement case where a caravan was being lived in by a single person, who did not claim gypsy / traveller status, and without any justification of agricultural need];
 - Gypsies and Travellers are treated differently to the settled population; and
 - The Council will not listen to local concerns *“as you have never done so in the past.”*
- 6.03 The Brambledown Resident's Association objects on the following summarised grounds:
- There has been an established pattern of unauthorised sites on Greyhound Road;
 - The number of pitches has formed one large site, with further surrounding land available for more expansion;
 - Cumulative, dominating impact on settled community;
 - The Woodlands Lodge appeal decision sets a precedent for refusing permission here; and
 - Planning enforcement action has been slow to respond.
- 6.04 No other representations received.

7.0 CONSULTATIONS

- 7.01 Minster Parish Council objects strongly on the following summarised grounds:

- Impact on the character and amenity value of the countryside;
- Remote, unsustainable location;
- Domination of nearby settled community; and
- History of planning breaches.

A full copy of the Parish Council's objection is appended to this report.

- 7.02 Southern Water has no objections, but advises that the Environment Agency should be consulted with regard to the use of soakaways and septic tanks.
- 7.03 No other representations received.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 There are no historic applications for this site itself, but the above-noted historic applications and the recent appeals at The Hawthorns, The Peartree, and Blackthorn Lodge, as discussed in the appraisal section, are relevant.

9.0 APPRAISAL

- 9.01 Applications ref. SW/14/0530, 14/501324/FULL, 15/500669/FULL, 16/505355/FULL, and 16/505356/FULL all seek permanent permission for residential use of Gypsy / Traveller sites along Greyhound Road. The issues, circumstances and considerations for each are very similar so, to avoid duplication, a single appraisal section has been presented at item 2.5.
- 9.02 With specific regard to the proposed stables, however, I have no serious concerns and do not consider that they, in themselves, would give rise to any serious or significant harm to the countryside or local amenity.
- 9.03 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.

10.0 CONCLUSION

- 10.01 I recommend that permanent planning permission should be granted.

11.0 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.

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

- (7) The proposed stables shall be constructed in accordance with the details shown on drawing 489/03.

Reason: In the interest of visual and rural amenity.

- (8) The stables hereby permitted shall only be used for the stabling of horses or ponies for private use and for no other purpose, including any commercial use.

Reason: In the interests of the amenity of the area, and highway safety and convenience.

- (9) With the exception of one trailer for the storage of manure, no external storage of materials or items of any kind including jumps, caravans, mobile homes, vehicles or trailers shall take place on the site.

Reason: In the interests of visual amenity.

The Council's Approach

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.