

Def Item 3      REFERENCE NO - 17/501399/FULL			
<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 subject to conditions			
<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>OFFICER SITE VISIT DATE</b>
<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 will note that this application, and also 16/505355/FULL, (which is also reported elsewhere on this agenda) were deferred from the meeting on 22 June for clarification. This is addressed at paragraph 2.03 below. A single policy section and appraisal has been produced here for both applications, as set out at sections 4 and 8 of this report.

## MAIN REPORT

- 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 application 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.
- 2.03 Members voted to defer determination of this application from the meeting on 22 June to clarify site layout and number of caravans. I have received a layout plan from the applicant which I consider accurately reflects the circumstance of the site, and shows two static caravans, two touring caravans, a day room, and a shed, all set around a central parking / turning / amenity area. It also indicates Laurels planted along the side boundaries (which are existing, and relatively well established), two grassed areas, and cess pit drainage.
- 2.04 The original committee report is appended for reference.

## 3.0 PLANNING CONSTRAINTS

- 3.01 None.

## 4.0 POLICY AND OTHER CONSIDERATIONS

### National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the

likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

- 4.02 The Council considers that the following extracts from paragraph 7 are particularly pertinent:

*There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

- *an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

- 4.03 In relation to rural housing the NPPF (at paragraph 55) states;

- *To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*
  - *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
  - *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
  - *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
  - *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
    - *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
    - *reflect the highest standards in architecture;*
    - *significantly enhance its immediate setting; and*
    - *be sensitive to the defining characteristics of the local area.*

- 4.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

*The planning system should contribute to and enhance the natural and local environment by:*

- protecting and enhancing valued landscapes, geological conservation interests and soils;*
- recognising the wider benefits of ecosystem services;*
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and*
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

#### Planning Policy for Traveller Sites (PPTS)

- 4.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims 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*
- 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*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

- 4.06 In terms of plan-making the PPTS advice is that;

*“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:*

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

4.07 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)*

4.08 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).* I 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). I 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 5year 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). I note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.*

- 4.09 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 such.”*

- 4.10 The implications for this change in definition has clouded the issue with regard to defining need and this matter was the subject of some changes to the Council’s emerging Local Plan during the Main Modifications stage, which are referred to below.

#### Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 4.11 These sites are within the Central Sheppey Farmlands landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as of moderate sensitivity and in poor condition.

#### The Swale Borough Local Plan 2017

- 4.12 Policy DM10 of the adopted Local Plan is particularly relevant:

##### ***Part A: Retention of sites for Gypsies and Travellers***

*Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.*

##### ***Part B: Gypsy and Traveller sites***

*The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:*

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
  - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*

- b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
- c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.*
- 2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
- 3. *Can achieve an integrated co-existence between all communities;*
- 4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
- 5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*
- 6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
- 7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
- 8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
- 9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
- 10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
- 11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*
- 12. *Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.*

### **Five year supply position**

- 4.13 The revised PPTS (2015) has resulted in considerable uncertainty as it changed the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. Evidence to the recent Local Plan examination was that the Council has re-interrogated the GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 4.14 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031; this being the most generous of the possible reduced pitch numbers scenarios considered. Of these, 58 pitches have already been granted permanent planning permission meaning that the outstanding need for pitches to 2031 has now been met, albeit eight pitches at Upchurch have not been implemented and may now need to be deducted from the figures. The Council considers that on the basis of past trends any remaining need could easily be met from windfall proposals. Moreover it indicates that by proper engagement with the Council, appropriate sites can be found in sustainable and

acceptable locations in Swale (outside of the AONB or other designated area) without an appeal, meaning that there is a high probability of being able to find an acceptable alternative site with minimal delay. Indeed, if Members were to approve these applications, five more pitches could be added to the list.

- 4.15 As a result of this analysis the future need throughout the Local Plan period is based on an end figure of 61 pitches, leaving a need per year of less than one pitch and, that no formal pitch allocations will be needed. Policy DM10 has been revised to deal with these windfall applications and the element of policy CP3 on pitch allocations is to be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required.
- 4.16 The Local Plan Inspector's third interim report (March 2016) fully supported the Council's proposed position regarding gypsy and traveller site provision, accepting that the remaining need for sites could be managed by windfall applications and without a Part 2 Local Plan. The Local Plan has now been adopted, and thus that position has been formalised.

## **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 adjoin the current application site. They are discussed in greater detail in the appraisal section.

## **8.0 APPRAISAL**



- 8.01 As noted within the report the merits of this case, as well as 16/505355/FULL are being considered in a single appraisal section as the circumstances of all the applications are broadly similar and the sites lie in immediate proximity to each other.
- 8.02 Circumstances differ in that some of the applicants have children and I am therefore required to consider the best interests of the child. However, given that I am recommending approval for all of the applications I do not consider that I need to go into great depth on this point as it does not significantly alter the arguments for each application (and this is supported by the Inspector's appeal decision for Blackthorne Lodge, which, at para. 42, states that *"there is no need to attach particular weight to the personal circumstances of the appellant, other than that they indicate the experience of many gypsies or travellers"*).

#### The recent appeal decisions and the principle of development

- 8.03 As noted at 7.02 above the Planning Inspectorate recently granted permanent permission for three sites along Greyhound Road: The Hawthorns, The Peartree, and Blackthorne Lodge (SBC refs. 15/502191/FULL, 15/502237/FULL & 15/503278/FULL respectively). The appeal decision for Blackthorne Lodge is attached for reference, and is broadly identical to the decisions on the other two sites.
- 8.04 The appeal decisions set a very clear marker for the Council in terms of how it should be dealing with applications at Greyhound Road. Officers and Members have previously taken a negative stance to the location as it was considered to be remote from services, poorly accessible, and harmful to the character and amenity of the countryside. However, the appeal Inspector allowed the three appeals and fundamentally disagreed with the Council on all of the above aspects, which are explored further below.
- 8.05 The decisions were reviewed by the Council's barrister, but it was concluded that they were sound and that there were no grounds on which to challenge the Inspector's findings. The appeal decisions therefore set a very clear steer for gypsy and traveller applications on Greyhound Road, and firmly establish the principle of granting permanent permission for these applications, and Members will recalling granting permanent consent for a number of other sites on Greyhound Road at the meeting on 22 June (from which this report was deferred).

#### Location and accessibility

- 8.06 When previously assessing the sites by way of the "traffic light" Site Assessment methodology Greyhound Road consistently scored poorly due to officers considering it to be remote from services and amenities. However, the appeal Inspector took a different view and noted that the expansion of Thistle Hill had brought the built up area boundary to within 800m of the various sites. The appeal decision comments:

*"25. It is pertinent to consider the changes being brought about by the continued development at Thistle Hill. Whilst much is built-out and the Council state a high degree of pre-sales, and whilst the community centre and school are in place, the provision of the planned shops appears to have stalled. That would provide a ready access for the site, and a level of integration with the new settled community. It is clear that there is development to the north of the proposed central site for the shops still to commence and that may provide the critical mass of demand necessary to bring about the provision."*

26. *It was asserted at the Hearing that the traveller lifestyle is likely to involve the use of private transport in any event, and that journeys would often combine shopping and the school run with other needs to make use of such transport for work, where the use of public transport, even if available, would not be appropriate. Certainly the traveller lifestyle is based on the need to travel in search of work, but there would be times when work is found closer to home and requiring only day-trips. Such a pattern of work would allow those other journeys to be undertaken at the same time, but would require of necessity, private transport. That aspect of the lifestyle is accepted in paragraph 13 h) of Planning Policy for Traveller Sites which states that some travellers live and work from the same location thereby omitting many travel to work journeys, which can contribute to sustainability.*
27. *... the site is not so remote as to make it unduly difficult to gain ready access to facilities, and Planning Policy for Traveller Sites does provide at Policy C for sites in rural areas."*

8.07 The Inspector concludes this issue very clearly at para. 29:

*"In conclusion on this issue, the site is outside the settlement boundary, but less remote than at the time of an appeal Decision at Woodlands Lodge, due to the progress being made with the Thistle Hill expansion. In the balance between a desirable social inclusion and the operational needs of a traveller site for a countryside location, the situation of Greyhound Road is appropriate and acceptable, in accordance with emerging Policy DM10 and national policies."*

8.08 Given this unequivocal stance I find it very hard to conclude differently on the matter in respect of the current applications. The Inspector has determined that Greyhound Road is, partly due to recent expansions at Thistle Hill, now in an acceptable position and that the traditional gypsy way of life includes vehicle movements. It would be remiss of the Council to go against this stance at this stage, and I do not consider that we have any evidence to argue to the contrary. Refusal on such grounds would leave the Council open to a significant costs claim at appeal, and Members therefore should, in my opinion, not pursue such an option.

#### Visual amenity

- 8.09 The PPTS states that *"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."* It is worth noting that the word "very" was added to this paragraph in the 2015 re-issue of PPTS which implies to the Council that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this can do to the character of open countryside.
- 8.10 However, the Planning Inspector was, again, very clear in his conclusions on this aspect, commenting that additional landscaping would reduce the prominence and visual impact of the various sites along Greyhound Road, and that in long distance views (from Elm Lane, for example) the sites blended into the wider landscape and were (para.19 of the appeal decision) *"largely subsumed into the flat land leading down to the Swale, the eye being drawn to the attractive estuarial landscape and distant features...the effect on the wider area is limited."*

- 8.11 Therefore the imposition of standard landscaping conditions on the various applications would accord with the Inspector's recommendations, and mitigate the appearance of the various sites appropriately.

#### Other matters

- 8.12 The principle of development aside, the various sites appear to cater for the applicant's needs – they have access to local healthcare facilities, schools and shops (albeit by driving, as noted above), and seem to have settled down well on their respective plots. I have noted a good sense of community when visiting Greyhound Road, and each of the sites are generally well maintained and tidy.
- 8.13 Each site provides a suitable amount of outdoor amenity space, vehicle parking, and turning in accordance with adopted guidance, and I therefore have no serious concerns in this respect. The existing access from Greyhound Road onto the Lower Road serves the site appropriately.
- 8.14 Approval of this application would result in an additional permanent gypsy / traveller pitch being added to the Council's figures, which reduces the need to provide such accommodation elsewhere, on potentially more sensitive land.
- 8.15 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.

#### **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.



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<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</b> (including appeals and relevant history on adjoining sites):			
<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



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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 Scoles 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 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."*

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**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, 15/500889/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.

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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.



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**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.

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- 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

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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.

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## Appeal Decision

Hearing held on 13 December 2016

Site visit made on 14 December 2016

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 February 2017

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**Appeal Ref: APP/V2255/W/16/3153747**

**Blackthorn Lodge, Greyhound Road, Minster-on-Sea, Kent ME12 3SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr D Brazil against the decision of Swale Borough Council.
  - The application Ref 15/503278/FULL, dated 14 April 2015, was approved on 5 January 2016 and planning permission was granted subject to conditions.
  - The development permitted is change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding.
  - The condition in dispute is No 1 which states that: The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place..
  - The reason given for the condition is: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.
- 

### Decision

1. I allow the appeal and vary planning permission Ref 15/503278/FULL for change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding at Blackthorn Lodge, Greyhound Road, Minster-on-Sea, Kent ME12 3SP granted on 5 January 2016 by Swale Borough Council, by deleting conditions 1) and 6) and varying condition 8).

### Main Issues

2. These are;
    - The effect of the proposal on the character and appearance of the Lower Road area of Sheppey.
    - The effect of the proposal on the aims of sustainable development, with particular regard to access to services and facilities for day-to-day living.
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- The weight to be attached to other considerations, including the supply of sites generally, the personal circumstances of the appellant and the availability of alternative sites for him.

**Reasons***Preliminary Matters*

3. The site is among a group of traveller sites on Greyhound Road, and a single Hearing addressed similar applications from the occupiers of three of the sites; this one at Blackthorn Lodge, one at The Peartree and one at The Hawthorns. Another site at Woodlands Lodge was referred to as being the subject of an appeal in 2013, and that Decision will be considered as part of the main issues in the present appeal.
4. Whilst a joint Hearing was appropriate in view of the common issues, the appellants being represented by the same agent and by both the Council and the appellants having submitted joint Appeal Statements, it is appropriate to issue three separate Appeal Decisions in order that each should stand-alone as a document. There are however passages common to all three Decisions.
5. The hearing in the Council offices took place over much of Tuesday 13 December and in view of the failing light it was agreed that the site inspection should take place the following day. At that inspection each site was visited along with the respective occupiers, and the appellant's agent then drove myself and the Council Officer on a tour of possible viewpoints, shops, schools and other facilities mentioned in evidence, as well as recent housing development to the west. At the request of District Councillors and a representative of the Parish Council, notice was taken of the traffic conditions at the entry onto the main road, although this was not a matter of objection from the Council. The Hearing remained open for discussion throughout.
6. The original application was for the variation or removal of condition 7) of planning permission SW/11/1415 granted on 25 June 2012 which was for the change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding, and sought the temporary permission of 4 years be extended or removed. The four year period would have expired on 25 June 2016. The Council granted permission on 5 January 2016 for a further 1 year period from that date, effectively another 6 months or so, secured by condition 1) as set out in the bullet points to the heading above, and it is this grant of permission that is appealed. Being an appeal against the grant of permission, the various options open to the decision taker were discussed and agreed at the Hearing. The permission granted in 2016 included 7 of the 9 other conditions attached to the 2012 permission.
7. It was confirmed at the Hearing that the occupiers of the site continue to satisfy the definition of a gypsy or traveller as set out in the August 2015 version of Planning Policy for Traveller Sites, a situation that existed at the time of the Council's grant of the one year permission in January 2016.

*Policy Background*

8. The Development Plan for the area consists of the saved policies of the Swale Borough Local Plan 2008 and Policy E1 on general development control criteria
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- requires development to be well sited, appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access. The site is in the countryside where Policy E6 seeks to protect the quality, character and amenity of the area. Development will not be permitted outside rural settlements unless related to an exceptional need for a rural location. Policies E9 and E19 seek the protection of landscape and high quality design. Safe access to development is the subject of Policy T1.
9. Specific to the provision of gypsy and traveller sites, Policy H4 sets criteria for sites, but seeks a genuine connection with the locality for anyone wanting to set-up a site, in addition to be able to prove traveller status. The Council accept that the policy was criticised by the Local Plan Inspector at the time, and that greater weight should be given to the more recent publication of Planning Policy for Traveller Sites. Whilst Policy H4 is still part of the Development Plan, and benefits from the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council's acceptance of its limitations is acknowledged.
  10. There is emerging policy in *'Bearing Fruits 2031: The Swale Borough Local Plan, Proposed Modifications, June 2016'*. The Local Plan Inspector's interim findings contain at paragraphs 11 to 14 in Part 3 a commentary on the process being undertaken by the Council, having mind to the revised definition of a gypsy or traveller introduced in the August 2015 revision to Planning Policy for Traveller Sites. The original need for 85 pitches was found to have reduced to 61, of which 51 had been completed or had permission granted. The Inspector considered the proposal that the remaining 10 be provided through windfall planning applications to be a well-reasoned and pragmatic solution to ensure that the Plan aligns with up-to-date national policy.
  11. On that basis it is not proposed to allocate sites, but to test windfall applications against criteria in Policy DM10 of the draft Local Plan which includes consideration of integration between communities; the effect on local communities, character and appearance, landscape and local services; the health of occupiers; the need for landscaping; access and parking. The appellant made representation as to the weight to be attached to the Inspector's interim findings, which will be considered in the planning balance.
  12. The Council has published the Supplementary Planning Document *'Swale Landscape Character and Biodiversity Appraisal'* which identifies the area where the site is as being within the central Sheppey Farmlands character area, described as being of moderate sensitivity and in poor condition.
  13. Planning Policy for Traveller Sites of August 2015 is the most recent statement of Government policy with regard to such site provision and the introduction states the Government's overarching aim 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.
  14. Decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework so far as relevant, and this document states the presumption in favour of sustainable development and sets out the three dimensions of such development. The core planning principles include conserving and enhancing the natural environment; actively managing patterns of growth to make the fullest possible use of public transport, walking and



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cycling; and focusing significant development in locations which are or can be made sustainable.

*Character and Appearance*

15. The site is part of a distinct and closely linked group of similar sites along Greyhound Road leading south from Lower Road, the A2500. It is outside the settlement boundary to the west and is, in policy terms, in the open countryside. There is open agricultural land to the north of the main road and the flat land reaching to the Swale to the south, but that land south of the road is not devoid of other development, there being linear built form leading away from the road to the west of the site, a disused public house and car park to the east, and further east more concentrated development around the bend and hill at Brambledown and at the entry to Elmley Road.
16. It is clear from a series of aerial views supplied by the Council that the site was once wooded and the various temporary permissions granted have resulted in the present more open aspect. It is less clear what would be expected pursuant to the condition requiring the land to be restored to its condition before the development took place, or what control might have prevented some removal of trees under the original use, presumably agricultural.
17. As mentioned previously, another site at Woodlands Lodge was the subject of an appeal in 2013. That site is adjacent to and between The Peartree and Blackthorn Lodge, another site covered by the joint Hearing, whereas The Hawthorns is further to the north and nearer the main road, with intervening sites not considered here. The Inspector's Decision was issued on 28 October 2014 (Ref: APP/V2255/C/13/2208507) and concerned enforcement action, but he considered a deemed planning application under Ground (a) and the effect on the character and appearance of the area. He found views of that site to be limited in extent to the immediate locality given the presence of trees around the edge of the site, although the structures and hardstanding would be visible from Greyhound Road given the wide access.
18. The analysis holds true to an extent for the current appeal site, although being at the end of Greyhound Road the nearby view is more open. Greyhound Road is a *cul-de-sac* and there is no public right of way, whilst the vegetation at the site boundary with open land to the west is limited. The previous Inspector accepted that the use of landscaping could soften the appearance of that site and over time mitigate, to an extent, the visual harm, but he considered that it would not remove it entirely. It is agreed now that compared with what appears to be the previous condition of the land, there has been some harm caused to the appeal site, but this is limited and to a substantial degree, capable of being further mitigated by landscaping.
19. More distant view-points are limited as found in 2013, and from the slightly raised locations along Lower Road to the east and west the sites, including Blackthorn Lodge, are largely subsumed into other development or filtered by vegetation. Higher level views are available from Elm Lane to the north, but from there the sites do not stand out and are again largely subsumed into the flat land leading down to the Swale, the eye being drawn to the attractive estuarial landscape and distant features. Having mind to the findings of the 'Swale Landscape Character and Biodiversity Appraisal' that the site lies within an area of moderate sensitivity that is in poor condition, the effect on the wider area is limited.

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20. Another consideration in this and the next main issue is the change being brought about by the continued development of Thistle Hill on the far side of Scocles Road to the west. This is bringing the appearance of the built-up area closer to the appeal site, rendering it less clearly in open countryside and more as an edge-of-town site. The consequence of this is to reduce further the limited visual harm that would occur.
21. It is appropriate to consider the cumulative effect, having mind to the Decisions being issued at the same time for the other two sites at The Peartree and The Hawthorns, and the possibility that these would affect consideration of other sites in the group. There is visual benefit in a grouping, avoiding sporadic development and visually isolated individual sites. The single entry onto Lower Road is visually appropriate and not unlike other entries in the vicinity, and Greyhound Road has the character and appearance of a rural lane.
22. To conclude on this issue, whilst the passage of over 4 years of temporary permissions has resulted in the site becoming a part of the character and appearance of the area over that time, the use of the land, the stationing of the mobile home and the other structures has resulted in some limited harm in nearby views. That is mitigated in long views by the vegetation on other sites and there is scope for further works on this site. With those provisions the proposal accords with national policy and Development Plan Policies E1, E6, E9 and E10.

#### *Accessibility to Local Services*

23. This matter again was considered by the Inspector in the 2013 appeal, and he made reference to the policies of the Planning Policy for Traveller Sites extant at that time. One of the changes introduced in 2015 was to paragraph 25 in Policy H on determining planning application for traveller sites. This now reads *'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'*, the alteration being the addition of the word 'very' in the first sentence. The Inspector concluded that the site was remote and located away from a settlement with adequate and sufficient amenities.
24. The site inspection of the current case included an extensive tour of the nearest settlement and its facilities, and they do not appear to have changed significantly from those referred to in the Woodlands Lodge case. The main road is not inviting to walk along, but there is a public right of way across fields towards the school and shops.
25. It is pertinent to consider the changes being brought about by the continued development at Thistle Hill. Whilst much is built-out and the Council state a high degree of pre-sales, and whilst the community centre and school are in place, the provision of the planned shops appears to have stalled. That would provide a ready access for the site, and a level of integration with the new settled community. It is clear that there is development to the north of the proposed central site for the shops still to commence and that may provide the critical mass of demand necessary to bring about the provision.



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26. It was asserted at the Hearing that the traveller lifestyle is likely to involve the use of private transport in any event, and that journeys would often combine shopping and the school run with other needs to make use of such transport for work, where the use of public transport, even if available, would not be appropriate. Certainly the traveller lifestyle is based on the need to travel in search of work, but there would be times when work is found closer to home and requiring only day-trips. Such a pattern of work would allow those other journeys to be undertaken at the same time, but would require of necessity, private transport. That aspect of the lifestyle is accepted in paragraph 13 h) of Planning Policy for Traveller Sites which states that some travellers live and work from the same location thereby omitting many travel to work journeys, which can contribute to sustainability.
27. As accepted by the Inspector on the Woodlands Lodge appeal, a settled base has given the occupiers of the appeal site access to healthcare and the same would be true of education for a family living here. The personal circumstances of the appellant will be considered next, but the site is not so remote as to make it unduly difficult to gain ready access to facilities, and Planning Policy for Traveller Sites does provide at Policy C for sites in rural areas.
28. That allowance for rural sites is provided that they do not dominate the nearest settled community. As with consideration on the visual effect, it is necessary to consider a possible cumulative effect, as the Greyhound Road area consists of a number of traveller sites. However, the layout is not sprawling, but is well contained and does not appear to have any adverse effect on the settled community of Brambledown or Minster, either in visual or numerical terms. It is sufficiently removed to avoid dominating the community, whilst being close enough so as not to appear truly isolated.
29. In conclusion on this issue, the site is outside the settlement boundary, but less remote than at the time of an appeal Decision at Woodlands Lodge, due to the progress being made with the Thistle Hill expansion. In the balance between a desirable social inclusion and the operational needs of a traveller site for a countryside location, the situation of Greyhound Road is appropriate and acceptable, in accordance with emerging Policy DM10 and national policies.

*Other Considerations and the Planning Balance*

30. The first consideration is the supply of sites in the Swale Borough area. The decision to not allocate sites is based on there being a reduced need, following the revision in 2015 to the definition of a gypsy and traveller, and to there being as a result, more than a five year supply of sites as required by paragraph 10 of Planning Policy for Traveller Sites.
31. The Council did accept however that where a gypsy or traveller who was occupying a site, falls out of the definition on a permanent basis through old age, they were unlikely in practice to seek their removal from the site. This, coupled with the already low turnover of privately provided sites, would limit site availability.
32. The inclusion of 8 new pitches in the 2015/2016 monitoring update at Orchard Park, Oak Lane, should be treated with some caution on the evidence presented to the Hearing, as the new pitches are the result of sub-division of existing pitches and would share the already existing utility buildings. The appellant's assertion that this sharing would not provide for wholly new

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occupiers, unconnected with the existing families, to be accommodated carries significant weight. As a result, the appellant's view that this is more akin to a house extension to accommodate a growing family than a wholly new house should also be afforded considerable weight.

33. The appellant says that there will be objections to the resumed Local Plan examination, notwithstanding the Council's view that this matter is settled, and that removing the 8 sites at Orchard Park reduces the supply below the 5 year point. That appears a realistic appraisal.
34. Looking at the particular alternatives open to the appellant, the site at Brotherhood Woodyard at Dunkirk, with its 19 pitches, would appear to offer the possibility of vacancies arising, but the appellant's evidence is that this is occupied by Irish Travellers and that the Romany descended appellant would be most unlikely to settle there. Having mind to the views expressed at the Hearing, this appears a consideration of significant weight.
35. With regard to personal circumstances, the occupiers have access to health care locally at Thistle Hill, the continuity of which could be lost were they to have to leave the site. The presence of other traveller families on Greyhound Road is also a significant consideration when it comes to support.
36. It is appropriate here to consider the objection to the entry onto Lower Road, and the safety of that road. Whilst evidence was brought by Councillors and the Parish Clerk, regarding accidents on the road and at the entry, there is no official data indicating that users of the entry were at fault or even involved, and the Highway Authority raises no objection to the proposal either alone or cumulatively. The entry is on a part of the road subject to the national speed limit, between areas of 40mph, and has good visibility in both directions due to the curve of the road away from the entry. This does not appear a reason to find against the proposal, and the Council's approach is concurred with now. In this respect the proposal accords with Policies E1 and T1.
37. Turning then to the planning balance, there is real doubt over whether the Council can demonstrate a five year supply of sites, which as stated in paragraph 27 of Planning Policy for Traveller Sites is a significant material consideration in the grant of a further temporary permission.
38. However, the grant of a further temporary permission now would be the third on this site and the web-based Planning Practice Guidance states at Paragraph: 014 Reference ID: 21a-014-20140306 that it will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so.
39. Considering the findings of the two previous main issues, the visual harm can be mitigated to a considerable degree by the imposition of a landscaping condition, which should include control of hardstanding and site layout. The residual effect would be only in as much as activity and the sites being visible in views filtered, but not blocked, by vegetation secured by condition. Such filtering of views is fully in line with advice in paragraph 26 d) of Planning Policy for Traveller Sites that a site should not be enclosed with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. The location of the site is not so distant from facilities, with the built form of



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Minster moving closer, as to be considered remote in the terms of paragraph 25 of the national policy document.

40. Further weight in favour of the proposal derives from the Development Plan position with Policy H4, whilst accepted as being out-of-date, is complied with in terms of the effect and the occupiers do now have a connection with the locality and the other criteria would have been considered in 2012.
41. To sum up, the location of the site, singly or cumulatively with others, appears a reasonable balance between isolation and not dominating the nearest settled community. The site scores well when considered against the criteria in paragraph 26 of Planning Policy for Traveller Sites and given the limitations of the Area of Outstanding Natural Beauty in other parts of the Borough, the location appears entirely suitable for a permanent permission.
42. In view of that finding, there is no need to attach particular weight to the personal circumstances of the appellant, other than that they indicate the experience of many gypsies or travellers. On that basis, whilst it would be essential to attach a condition limiting the occupation of the site to a gypsy or traveller as defined, there would be no necessity to limit it to any particular person.

**Conditions**

43. The starting point for this consideration is the conditions attached to the 2016 permission. The Council suggested conditions at the Hearing and these were substantially as conditions 2) to 5) of that permission. As stated in the Formal Decision above, condition 1) that limited the occupation to only a temporary period, is removed. It is also appropriate to delete conditions 6) and 8) on access, parking and turning in favour of a new condition seeking a Site Development Scheme that would cover those matters.
44. The provision of such a Site Development Scheme including site layout and hard-standings as well as filtering vegetation is essential for the reasons set out previously and is reasonable in a permanent permission. Due to the fact that the development and stationing of caravans has already taken place, the condition should provide for sanctions in default, ultimately leading to the removal of the items placed on the land.

**Conclusions**

45. The development of the Thistle Hill area of Minster has rendered the site less remote than was considered to be the case in an appeal in 2013, and the visual effects are consequently less apparent. The appeal proposal when taken together with the other two sites and accepting the possibility of the other sites in the group also seeking to establish permanent use, would provide much needed accommodation without causing significant and demonstrable harm once conditions have been accorded with. The site is suitable for permanent traveller occupation and Development Plan policies together with those of the Framework and Planning Policy for Traveller Sites do not indicate that development should be restricted. For the reasons given above it is concluded that the appeal should succeed. The planning permission will be varied by deleting some of the conditions and substituting others.

*S J Papworth*

INSPECTOR

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**APPEARANCES****FOR THE LOCAL PLANNING AUTHORITY:**

R McCardle	Senior Planning Officer Swale Borough Council
S Rouse	Senior Policy Officer Swale Borough Council

**FOR THE APPELLANT:**

P Brown	Managing Director Philip Brown Associates
D Brazil	Blackthorn Lodge
L Smith	The Hawthorns
D Kerbey	The Peartree

**INTERESTED PERSONS:**

Cllr T Booth	Sheppey Central Ward Swale Borough Council
Cllr C Beart	Queenborough and Halfway Ward Swale Borough Council
T Codrington	Parish Clerk Minster-on-Sea Parish Council

**DOCUMENTS**

Document	1	Notification letter 14 November 2016 submitted by Council
Document	2	Statement of Common Ground signed and submitted jointly, includes track-change deletions for information
Document	3	'Monitoring Update of Gypsy and Traveller Land Supply 2015/16' submitted by Council
Document	4	Planning Committee Report 16 January 2014 on Orchard Park site
Document	5	Planning Committee Report 13 March 2014 on Orchard Park site
Document	6	Locations for site inspection submitted by Council

**SCHEDULE OF CONDITIONS**

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the Department for Communities and Local Government 'Planning Policy for Traveller Sites August 2015'.
- 2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.
- 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

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- vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.
- 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.
  - 5) No building or structure shall be erected or stationed within 8 metres of the adopted drainage ditch.
  - 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
    - i) Within 3 months of the date of this decision a scheme for the internal layout of the site, including the siting of caravans, utility building, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; and vehicle parking or turning space (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the Local Planning Authority and the scheme shall include a timetable for its implementation.
    - ii) If within 11 months of the date of this decision the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
    - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
    - iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that items the subject of the Scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.