

2.8 SW/13/1209**Upchurch****APPLICATION PROPOSAL**

Change of use of land for the stationing of two mobile homes (in connection with adjacent existing site).

(As amended by revised layout drawing received 28th January 2014.)

ADDRESS The Paddock, Holywell Lane, Upchurch, Sittingbourne, Kent, ME9 7HP

RECOMMENDATION Grant with conditions

SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL

The application will provide additional units of accommodation (for children of existing residents) on land immediately adjoining an existing gypsy / traveler site that scores well on the Council's site assessment, and is therefore considered to be a good location for such development. The use of this land would not give rise to serious harm to visual amenity of this undesignated landscape, and the cumulative size of the site would not dominate surrounding local communities.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Hartlip,
Newington & Upchurch

PARISH/TOWN COUNCIL
Upchurch

APPLICANT Mr & Mrs B
Dennard
AGENT Mr Edward Ellis

DECISION DUE DATE
19 December 2013

PUBLICITY EXPIRY DATE
4 April 2013

OFFICER SITE VISIT DATE
Various

RELEVANT PLANNING HISTORY:

NB: All history relates to adjacent existing gypsy / traveler site; the current application site has no planning history itself.

App No	Proposal	Decision	Date
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SW/99/0836	Use of the land as a residential caravan pitch for one gypsy family.	Approved	1999
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This application is discussed in detail within the report.

SW/04/1302	Variation of conditions 1 and 2 above to allow 3 caravans on site, and occupation by Mr & Mrs Millen, and Mr & Mrs Dennard	Approved	2004
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This application is discussed in detail within the report.

SW/07/1043 and 1044	Retrospective permission for the erection of the front entrance walls and gates, retention of the timber utility blocks, and	Approved	2008
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	soft landscaping works; and for variation of condition 3 to amend the position of the mobile homes on site.		
This application is discussed in detail within the report.			
SW/12/0906	For variation of condition 3 of SW/04/1302 to allow the front-most mobile to be set 35m from Holywell Lane	Approved	2012
This application is discussed in detail within the report.			
SW/13/1206	Variation of conditions 1 and 3 of planning permission SW/04/1302 to allow additional mobile homes on the site (total 5) and to allow retrospective siting of caravans more than 10m from the southern boundary of the site with Holywell Lane.	Current	
This is a concurrent application also presented on this agenda .			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The Paddocks is an existing authorised private gypsy and traveller site situated on Holywell Lane, within the countryside to the southeast of Upchurch and southwest of Lower Halstow.
- 1.02 The site sits within a valley and is largely surrounded by rising or undulating land – this provides views of the site from Breach Lane when approaching from the south, and from Holywell Lane when approaching from the east. A hedge runs along the roadside boundaries and helps to screen views when immediately adjacent on Holywell Lane or the access road. A number of mature trees along the boundary help to screen views of the rear portion of the site, and the area of land subject to this application is not readily prominent from either Holywell Lane or Breach Lane.
- 1.03 To the front of the site, and also along the access track towards the rear, are brick entrance walls and metal gates standing approximately 2m high. These provide independent access to the two different areas of the site, each occupied by a separate family.
- 1.04 A gas pipeline runs across the land in a roughly NW-SE direction, before continuing eastwards through the existing site towards Holywell Lane.
- 1.05 The existing site contains 4 mobile homes and 3 timber amenity / storage buildings. Brick paving provides vehicle access and parking areas, and the

remainder of the site is given over to lawns. The site, in my experience, has always been well maintained and is of a high standard of appearance.

1.06 Members may be aware that the permission for the land (as explored below) allows for 3 mobiles on the site, and thus the fourth existing mobile is unlawful. I would note it has been there since at least 2008 (2005 by the applicant's reckoning), and that concurrent application SW/13/1206 (discussed below) seeks to regularise the situation.

1.07 The planning history for the adjacent existing site is extensive:

- In 1999 application SW/99/0836 granted permission for use of the land as a residential caravan pitch for one gypsy family. Condition 1 of the permission restricted the site to no more than 2 caravans. Condition 2 restricted occupation of the site to Benny and Minnie Brazil, their daughter Mary Jane, and their grandchildren only. Condition 3 restricted placement of the caravans to the central part of the site in order to minimise visual impact.
- In 2004 application SW/04/1302 granted permission for variation of conditions 1 and 2 above to allow 3 caravans on site, and occupation by Mr & Mrs Millen, and Mr & Mrs Dennard. Condition 3 of that permission also restricted placement of caravans to the central part of the site.
- In 2007 applications SW/07/1043 and 1044 sought retrospective permission for the erection of the front entrance walls and gates, retention of the timber utility blocks, and soft landscaping works; and for variation of condition 3 to amend the position of the mobile homes on site. Both applications were refused by the Council on grounds of visual amenity only in relation to the gates/walls and the position of the front-most mobile (the utility blocks were considered to be acceptable), but subsequently allowed at appeal by the Inspector, who commented:

“...the sharp twists and turns of Holywell Lane and the narrowness of the byway seem to me to make the two examples of brickwork and metal gates on the current appeal site less obtrusive in that particular setting. The corner gateway is especially recessed and, in an area characterised by a variety of boundary treatments...do not look out of place.”

The Inspector did agree, however, that the front 40m of the site protected by condition 3 were important in reducing visual harm from Holywell Lane, and upheld this part of the decision notice in the fact that the front-most mobile had to be repositioned further back into the site. It was made clear, however, by both the Council and the Inspector that the provisions of condition 3 requiring the rearmost portion of the site to be protected were now not as essential, due to the way in which the site had grown over the years and the presence of mature trees and hedging.

- Further to the above appeal decision, in 2012 (conclusion of the appeal took some time, and the applicant had to save up the money to pay for a crane to reposition the mobile), application reference SW/12/0906 granted permission for variation of condition 3 of SW/04/1302 to allow the front-most mobile to be set 35m from Holywell Lane. Condition 3 required a minimum of 40m, but in the time between 2007 and 2012 the position of a gas pipe crossing the site was verified – repositioning the mobile 40m back would place it directly above this pipe.

1.08 Most recently, and running concurrently to this application, SW/13/1206 is seeking permission for the placement of an additional mobile home on the existing site (for a total of 5) and to regularise the current fourth caravan, which has never been consented. That application is presented elsewhere on this agenda.

2.0 PROPOSAL

2.01 This application seeks planning permission for an extension to an existing gypsy and traveller site to accommodate an additional 2 static caravans, along with associated access, parking and amenity space at The Paddocks, Holywell Lane, Upchurch.

2.02 The two mobile homes would be positioned on land to the rear (west) of the existing caravans, on land used as garden area. One mobile will be positioned against the northern site boundary and one against the western boundary, close to the site frontage with the access road. Hardstanding will lead to each caravan, with parking for two cars to the front of each. The area between the two caravans (running roughly southeast-northwest) will form a lawn for shared use.

2.03 No additional amenity block is proposed.

2.04 The applicant has informed me that the mobiles will be lived in by children already living on site who have now grown up and need accommodation of their own.

2.05 The submitted Design & access statement comments:

“The reason and justification for two further mobile homes on the plot is that both Mr & Mrs Dennard and Mr & Mrs Millen have growing families and grandchildren. The mobile home would be used to accommodate their siblings with immediate effect and the growing families in future. The mobile home would only be used ancillary to the existing accommodation not for further unrelated families. This would avoid the necessity of providing further plots off site in the future and all the complications that may arise in that process.”

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
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Site Area (ha)	1 acre (0.4ha)		
No. of residential Units	5 (on adjacent existing site)	7	+2

4.0 PLANNING CONSTRAINTS

4.01 The site is within an area of archaeological potential, and within Flood Zone 3. Members should note that the flood zone designation is based solely on base land levels and the Environment Agency holds no records of historic local flooding.

4.02 A gas pipeline runs through the site, roughly on an northwest-southeast line.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 National Planning Policy Framework (NPPF)

5.02 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

5.03 The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework (LDF) Panel on 12 December 2012. All policies cited below, with the exception of policy E7 (Strategic Gap), are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process. With regards to policy E7, the report to the LDF panel notes that this policy is not wholly in accordance with the NPPF in that it seeks to protect gaps between settlements. In contrast, the NPPF in seeking to support a prosperous rural economy is more positively framed in terms of development opportunities in the rural area. In this sense, the prevention of the merging of settlements at a strategic level is weakened somewhat. This policy is at low/medium risk, should the Borough not have a viable and deliverable five year housing land supply. As such, it is not advisable to solely rely on this policy for the refusal of development.

5.04 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.
- 5.05 Para. 7 defines sustainable development as having three strands – social, economic and environmental.
- 5.06 The NPPF outlines a set of core land-use planning principles (Para 17) which should underpin both plan-making and decision-taking, including to contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.
- 5.07 Paragraph 55: 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.
- 5.08 Para. 109: 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.

5.09 Para. 112: Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

5.10 Planning Policy for Traveller Sites (PPTS)

5.11 National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS) (also published in 2012, and which deals with decision-taking on pages 6 and 7). The requirement in both documents is very clear, in that the Council should now set pitch targets which address the likely need for pitches over the plan period. Furthermore, the Council is required, from 2013 onwards, to maintain a rolling five year supply of sites which are in suitable locations and available immediately.

5.12 Prior to the publication of PPTS, national policy was set out in Circular 01/2006; where the original intention was for regionally set pitch targets to be met. The Council has in my view responded positively and quickly to the change in national policy. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided (adjusted down from 85 pitches in reflection of those sites granted consent whilst the document was under preparation). From this, the Council will produce a Development Plan Document setting out deliverable sites to meet this need (see below for details).

5.13 Para. 22: Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

1. the existing level of local provision and need for sites
2. the availability (or lack) of alternative accommodation for the applicants
3. other personal circumstances of the applicant
4. 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

5. that they should determine applications for sites from any travellers and not just those with local connections
- 5.14 Para. 23: Local planning authorities should 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.
- 5.15 Regard should also be had to the guidance in the Communities and Local Government document, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (2008).

Local Policy

- i) *The Swale Borough Local Plan 2008*
- 5.16 The Development Plan comprises the South East Plan and the Swale Borough Local Plan 2008 (SBLP). I will focus on the contents of the Local Plan as the Government has recently abolished the South East Plan.
- 5.17 SBLP policy E1 sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.18 SBLP Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.19 SBLP Policy E7 seeks to resist development that results in the merging of settlements or results in the encroachment or piecemeal erosion of land or its rural open and undeveloped character or, prejudice the Council's strategy for the redevelopment of urban sites.
- 5.20 SBLP Policy E9 seeks to protect the quality and character of the Borough's Landscape. Within the Countryside and rural settlements, the Borough will expect development proposals to be informed by local landscape quality and character, consider the landscape character SPD, safeguard and enhance landscape elements that contribute to the distinctiveness of the locality or the Borough, remove features which detract from the character of the landscape and minimise the adverse impacts of development upon the landscape character.
- 5.21 SBLP Policy E11 seeks to protect and enhance the Borough's Biodiversity and Geological Interests. Policies E14 and E15 seek to conserve and enhance the setting of Conservation Areas and listed buildings.

5.22 SBLP Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.

1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:

- a) there will be a proven need in the Borough for the site and for the size proposed;
- b) the site will be located close to local services and facilities;
- c) there will be no more than four caravans;
- d) the site will be located close to the primary or secondary road networks
- e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
- f) the site is not designated for its wildlife, historic or landscape importance;
- g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
- h) there is no conflict with pedestrian or highway safety;
- i) screening and landscaping will be provided to minimise adverse impacts;
- j) no industrial, retail, commercial, or storage activities will take place on the site.
- k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- l) the land will not be in a designated flood risk area.

2. Additionally to 1, for proposals for short term stopping places:

- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.”

5.23 Policy H4 had largely been superseded by ODPM Circular 01/2006. However that has itself largely been superseded by the newly published *Planning Policy for Traveller Sites*.

5.24 SBLP Policy E19 requires development proposals to be well designed.

5.25 SBLP Policy T3 requires adequate parking to be provided.

ii) *Bearing Fruits 2031*

5.26 The Council's Draft Core Strategy has now been replaced by the emerging draft Local Plan, entitled *Bearing Fruits 2031*, part 1 of which was sent out for consultation in August last year. The emerging nature of the document is such, however, that it cannot be afforded significant weight in the determination of planning applications such as this.

- 5.27 Policy DM10 of the emerging Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments, stating:

“For housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsies and travellers. For 150 dwellings and above (or 200 dwellings on previously developed urban sites), unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to gypsies and travellers as pitches and/or bespoke accommodation, either for sale or rent, as appropriate, and up to a maximum of 10 pitches on any one allocation. Where identified, pitches may also be required to meet an affordable housing need.”

- 5.28 The policy also notes that sites may need to be granted permission individually in order to meet the five-year supply, and this will be subject to certain general criteria, and also compliance with draft policies DM9 and ST3.

- 5.29 Draft policy DM9 requires applications for affordable housing / gypsy and traveller pitches within rural areas to demonstrate that:

- The site is well located to local service centres and villages, with access to day-to-day services;
- There will be no significant impact upon character and amenity of the countryside; and
- The need for the scheme is clearly demonstrated and justified by the applicant.

- 5.30 Policy ST3 sets out a settlement hierarchy for when considering proposals for new development, stating that outside of the defined built up areas *“permission will be granted for appropriate development involving...accommodation for gypsies and travellers that cannot be met at housing allocations or within or adjacent locations within”* the identified Borough centres, rural service centres, or other villages with built up area boundaries.

- 5.31 Policy DM 30 - Development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. Development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:

1. The site is allocated for development by the Local Plan;
2. There is no alternative site on land of a lower grade than 3a; or
3. Use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
4. The development will not result in the remainder of the agricultural holding becoming not viable.

5.32 The following policies are also relevant – DM14 (general development criteria); DM15 (design); DM27 (biodiversity); DM31 (listed Buildings) and; DM32 (Conservation Area).

iii) *Corporate Policy*

5.34 In January 2009 the Council published a consultation draft Gypsy and Traveller Corporate Policy to address the issue of gypsy site provision. This recognised that the Borough has traditionally had one of the largest gypsy and traveller populations within Kent and the South-East of England, often related to traditional farming activities.

5.35 The policy is based on meeting the predicted site needs from the Council's original GTAA (and was designed to meet the expected RSS figures) and whilst the Circular advocated a site allocations policy, the Council's policy explains that the combination of the wide range of pitch numbers potentially required, and the Council's good record of approving small private sites, meant that at that stage a site allocations approach was not the right way forward for Swale. The Council undertook a full survey of potential sites against a set of criteria in accordance with Government guidance. This included a review of current temporary permissions and an assessment of the potential of publicly owned land to meet the identified need. This, together with finding a solution for a persistent group of families at Sittingbourne (who were responsible for the vast majority of the unauthorised encampments in the Borough), was expected to see the Council making adequate provision to meet needs.

5.36 Potentially acceptable sites were then been assessed against a range of criteria including ownership (deliverability), utilities, highway issues, landscape impact and ease of access to local services. These assessments are a simple but objective measure of the likely suitability of each site, but are not intended to be the sole consideration in determining planning applications, which remain to be determined on their own merits. Some sites have been excluded from these assessments at the first stage due to flood risk or national or international nature conservation grounds, serious landscape or heritage impact or site suitability over a range of issues.

5.37 The Corporate Policy produced a schedule of possible sites to address local need, and these were published in the March 2010 Gypsy and Traveller Corporate Policy Site Assessment Consultation. The result of public consultation on that schedule and the assessment scores of potential sites was considered by the Council on 7 October 2010.

5.38 The Local Development Framework Panel at its meeting on 7 October 2012 accepted the following recommendations:

(1) *“That site assessments are a material consideration for the purpose of decision making subject to review when new national guidance is produced and further note the report on site scores. Also, as sites come*

forward as planning applications the site assessment be reviewed for currency

- (2) That sites to be removed from the Site Assessment process in Appendix 2 be agreed.*
- (3) That assessment work so far and consultation responses as evidence base for the LDF be noted.*
- (4) That the Corporate Policy and Site Assessment be reviewed when new national guidance is produced.*
- (5) That consideration of the Borough's pitch numbers be resolved when new national guidance is produced.*
- (6) That the unapproved draft of Core Strategy policy be received for initial comments."*

5.39 The Corporate Policy has in my view been largely successful in guiding the provision of gypsy and traveller sites.

(iv) GTAA 2013

5.40 In response to national policy and to gain a greater understanding of the Borough's need for pitch provision, the Council were required to produce a Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in 2013. The GTAA looked at a number of factors such as household growth and the number of families moving in and out of the Borough. The study also involved interviewing 163 resident households (79% of the estimated resident Gypsy and Traveller community within the Borough) to find out what their future accommodation needs were. The majority of Gypsies and Travellers both in caravans and in housing have lived in Swale for over ten years. Whilst the study assumed that inward and outward migration from the Borough equalled each other, it is possible that migration levels could increase in the future requiring a review of the GTAA or a need to grant planning permission for windfall sites - sites that come forward unexpectedly and get planning permission without first having been allocated for development in the Local Plan.

5.41 The GTAA concluded that the Borough requires 85 pitches to be provided from 1 April 2013 to 31 March 2031. This target has been adjusted to 82 pitches to reflect the granting of planning permission for three pitches between the survey base date February 2013 and 31 March 2013. An additional net 10 pitches have also been approved since 1 April 2013 and as such, the remaining need totals 72 pitches to 31 March 2031. When considering the requirements of the PPTS – to provide a five year supply of available gypsy pitches, the need figure of 72 has been annualised. This equates to the need for 21.2 pitches over five years from April 2014. This council currently has a supply of 22 pitches (Brotherhood Woodyard, Orchard Park, Hursell Farm, Cricket Meadow) and therefore, we are able to demonstrate the delivery of a 5 year supply of available pitches. It is worth noting that this Council is awaiting a number of appeal decisions on gypsy sites within the borough where we have relied on the figures set out above.

- 5.42 The GTAA recommends the Council meet a more onerous requirement for a five year supply, which encourages front-loading supply in the first five years amounting to 35 of the 85 pitches required. As explained earlier, the 85 pitch figure was adjusted to take account of three pitches completed in between the base date of the GTAA and the publication of the document. As such, it is also necessary to adjust the 35 figure to take this into account (32). Taking into account the 10 completions to date, plus the 22 pitches in the supply, this amounts to a total of 32 meeting a five year supply as per the phasing of the GTAA.
- 5.43 Having demonstrated this, however, the Council do not consider there is a requirement in either the GTAA or in policy for the Council to deliver a set number of pitches per year and no requirement for the Council to adopt the phased approach suggested by the GTAA.
- 5.44 The Council has begun work on Part 2 of the Local Plan which relates solely to allocations for Gypsy and Traveller sites. The work started with a call for sites and shortly after a consultation on an issues and options paper. The closing date for this consultation was Friday 25th April 2014. A further consultation due to take place in the summer of 2015 on the Council's preferred options. Part 2 of the Local Plan, is not anticipated to be adopted until 2016. This document will eventually identify and allocate sufficient sites to meet the future needs of Gypsies and Travellers in the Borough until 2031. The document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 5.43 The site is identified as being within the Upchurch & Lower Halstow Fruit Belt. The condition of the landscape and its sensitivity to change are moderate, with a recommendation to conserve and create.

6.0 LOCAL REPRESENTATIONS

- 6.01 Upchurch Parish Council objects to this application for the following reasons:
- *“In this application it appears that the applicants are asking for 2 mobile homes on the area called ‘lawn’ shown on application SW/13/1206, at the western end of that site. If it is in connection with the ‘adjacent’ site, then this would bring the whole site up to 6 mobile homes, or even 7 if application 1206 is allowed. Why do they state that it is ‘in connection with the adjacent site?’ If this is regarded as a separate site, and it is, after all, a separate application, then the statement in section 17 [of the application form], stating that there are 2 proposed increases in units and 3 existing is inaccurate. There are already 4 units on the main site and none on the site referred to in this application.*
 - *The site is at present used as garden and will be extending an already large and crowded travellers’ site, if allowed, further and further up a RUPP [Road Used as a Public Path]. Access is via this RUPP and there*

is already severe damage to the surface and difficulty if two vehicles need to pass.

- *All the points raised in objection to application SW/13/1206 also apply to this application.”*

6.02 Further to this, the Parish Council’s comments in regard to SW/13/1206 (the concurrent application presented on this agenda) state:

- *“Policy H4 of the Swale Local Plan 2008 states that no more than 4 caravans may be located on a gypsy & traveller site. This site already has 4, so if the application is permitted, the current plans would bring it up to 5.*
- *It also states that it should be close to primary or secondary road networks – Holywell Lane is a narrow, twisting lane with blind corners and no pavements thus leading to conflict between pedestrian and highway safety.*
- *The site is not located close to local services and facilities without having to use a vehicle.*
- *The site is adjacent to one on which planning permission has been given for a large area of solar panels, a chicken farm, also with solar panels, and what has been a serene rural sight in the past is now becoming an eyesore.*
- *Holywell Lane is becoming a ‘traveller’s village’ with 3 other sites near to the one which this application refers. It is effectively a rural lane becoming urbanised.*

6.03 In response to the amended layout plan the Parish Council reiterates its previous comments, and questions the adequacy of water and waste services to the site.

6.04 The Swale Footpaths Group has no objections.

6.06 No other local representations have been received.

7.0 CONSULTATIONS

7.01 Southern Water requests that an informative be attached to any grant of permission, notifying the applicant that a formal application for connection to the public sewer will be required.

7.02 Southern Gas Networks (SGN) initially objected to the scheme as the caravans were positioned less than 8.5m from the gas pipeline crossing the site, which may have given rise to operational difficulties in future should works have to be carried out to the pipeline. The amended drawings show the site reconfigured so that both caravans are now a minimum of 8.8m from the pipeline. SGNs further comments are awaited, but I do not expect them to raise any concerns.

7.03 The Health & Safety Executive (HSE), further to receipt of the amended layout drawing, “does not advise against” granting permission.

8.0 BACKGROUND PAPERS AND PLANS

8.01 The application is accompanied by site location and block plans.

8.02 Site history is as set out above.

9.0 APPRAISAL

9.01 As discussed above: The Paddock is an existing permanent traveller's site, granted permanent permission in 2004. I recognise that one of the existing caravans is unauthorised, but that issue is separate from the consideration of this extended area and is being considered separately under application SW/13/1206.

9.03 The site lies within the countryside where the principle of new residential development is normally resisted. However, as discussed above, it is clear that policies relating to gypsy and travellers permit countryside development as this is in line with their cultural heritage and lifestyles, and a reflection of the availability of land for such sites.

9.04 I would also reiterate the above in regards to policy H4 of the Local Plan, which is not considered to be compliant with the NPPF. The Council therefore has little policy basis on which to justifiably refuse permission, and temporary permissions must be considered as a minimum until the policy is redressed. In this instance, however, I consider the site to be acceptable for a permanent permission (and I would reiterate that The Paddock scores very well on the Council's site assessment criteria), but would urge Councillors to consider a temporary permission, at the very least, if they are minded to refuse the application contrary to the above-mentioned guidance.

9.05 This application amounts to the expansion of an existing site, to accommodate people already living on the existing site. I have not therefore sought to assess the site against the criteria for new sites, as the original site has the benefit of permanent planning permission.

9.07 The GTAA recognises that the "growing up" of residents and the forming of new households is a key driver of the need for accommodation. With this in mind a proportion of our assessed need for pitches arises from household growth. The additional caravans proposed here would reduce the Council's identified need and consequently reduce the number of pitches that would need to be found elsewhere, potentially on much less suitable sites.

9.08 The proposal therefore has the benefit of providing accommodation as an expansion to an immediately adjacent existing site without the need for development on other greenfield sites within the Borough, which could potentially be more visually harmful. Expansion of existing sites is promoted by the PPTS, and the Draft Local Plan policy DM10(3) supports proposals for site expansion and intensification where appropriate (although Members

should note that the Local Plan is in draft form only and thus has limited weight).

- 9.09 The location of the proposed caravans is away from the main site frontage with Holywell Lane, and adjacent to a number of mature trees that run along the access road / byway. I am therefore confident that they will not be prominent in views of the site from public vantage points and will therefore not give rise to serious harm to the character or appearance of the countryside. Furthermore, as noted above, The Paddocks has consistently been a well-maintained and attractive site, and I have full confidence that this will remain the case with the extended area as it will continue to be occupied by the same families. I therefore do not agree with the Parish Council's assertion that the area is "becoming an eyesore."
- 9.10 In this regard I would also note that the site expansion will not bring additional people onto the land – the two caravans will be occupied by sons / daughters of the current residents, who already live on the site. There is thus unlikely to be any serious issues of access (either to the site, or from the site to local services) or highway safety in regards vehicle and pedestrian movements over and above the existing situation, and in this regard do not agree with the Parish Council's objection.
- 9.11 The application does not seek a variation of the existing occupancy condition either, so occupancy of the new units would be restricted to members of the Dennard or Millen family in any instance.
- 9.12 The amended layout drawing, received 26 January 2014, shows the caravans positioned well away from the gas pipeline running across the site. This maintains Southern Gas Networks' operational / maintenance area, and I therefore have no serious concerns in this regard. Furthermore, and as noted above, the HSE does not advise against granting planning permission due to the presence of the pipeline.
- 9.15 Members will be aware of the relevant policy considerations relating to gypsy / traveller applications and also as they have considered numerous applications for such development throughout the borough over the past few years.
- 9.16 It is clear, and Members should be in little doubt, that the Council is in a difficult position with regards being able to appropriately defend the refusal of planning permission for otherwise acceptable gypsy / traveller sites.
- 9.17 The application site is well screened by boundary planting and is not readily visible from public viewpoints – although I accept that the existing site is prominent in views from some locations. In my opinion it would be extremely difficult to argue, on appeal, that an extension to the existing site would cause such significant material harm to the visual amenity of the area and the landscape sufficient to justify refusal of planning permission.

9.19 As above, I believe that the additional proposed caravans here would not be so significantly harmful so as to outweigh the clear government policy relating to the provision of gypsy and traveller accommodation.

10.0 CONCLUSION

10.01 In my opinion this is a good site, situated in a non-designated area and with links to local shops, services and amenities. I also believe that the expansion of the existing site would not give rise to serious and overriding visual harm to the character or appearance of the countryside.

10.04 I therefore recommend that planning permission should be granted.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

(1) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Grounds: In the interests of preventing general residential use of this rural site.

(2) No more than 2 static caravans or mobile homes as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

Grounds: In the interests of preventing the over-development of the site and upholding visual amenity.

(3) The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of Planning Policy for Traveller Sites

Grounds: In the interests of preventing general residential use of this rural site.

(4) No commercial activities shall take place on the land, including the storage of materials.

Grounds: In the interests of visual amenity and the character and appearance of the area.

(5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Grounds: In the interests of visual amenity and the character and appearance of the area.

- (6) No external lighting shall be used on the site other than in accordance with details as may be agreed in writing by the Local Planning Authority prior to commencement of development on site.

Grounds: In the interests of visual amenity and the character and appearance of the area.

- (7) No hardstanding shall be constructed or laid out and no caravan, shed, toilet or other structure shall be sited on the land other than in accordance with the details shown on drawing SWA/13112/P, received 26 January 2014.

Grounds: In the interests of visual amenity and the character and appearance of the area.

- (8) The areas shown on drawing SWA/13112/P, received 28 January 2014, as car parking spaces shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto.

Grounds: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

INFORMATIVES

- (1) A formal application for connection to the public sewerage system is required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel. 0330 303 0119) or www.southernwater.co.uk.

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 amended by a revised layout plan, received 28th January 2014, and subsequently considered to be acceptable.

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.