

2.4 REFERENCE NO - 16/503950/FULL			
APPLICATION PROPOSAL Variation of Condition 2 of SW/13/0706 to allow a total of four residential mobile homes and four touring caravans.			
ADDRESS Orchard View, Otterham Quay Lane, Upchurch, ME8 8QR.			
RECOMMENDATION Grant, subject to securing a SAMMS contribution of £245.56.			
SUMMARY OF REASONS FOR RECOMMENDATION The application would allow for family expansion on an existing authorised site, without giving rise to any serious amenity considerations.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.			
WARD Hartlip, Newington & Upchurch		PARISH/TOWN COUNCIL Upchurch	APPLICANT Mrs Dennard AGENT BFSGC
DECISION DUE DATE 15/07/16	PUBLICITY EXPIRY DATE 15/07/16		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/13/0706	Variation of condition (i) of planning permission SW/96/0329 to allow any gypsy family to live at the site.	Granted.	2013
Removal of the personal permission and opening up use of the site to any gypsy or traveller would not have caused any additional harm over and above use of the site by particular named individuals.			
SW/09/0881	Erection of dwelling house, together with use of part of site as a gypsy caravan site.	Refused, and dismissed at appeal.	2009
Permission refused for a dwelling on the grounds that the site lies outside of the built up area boundary, where permanent residential development is generally unacceptable, and loss of the wider site for gypsy and traveller accommodation would have impacted the supply of sites within the Borough. The Inspector supported the Council's decision in the subsequent appeal.			
SW/08/0800	Erection of dwelling house and cessation of gypsy use.	Refused.	2008
Permission refused for a dwelling on the grounds that the site lies outside of the built up area boundary, where permanent residential development is generally unacceptable, and loss of the wider site for gypsy and traveller accommodation would have impacted the supply of sites within the Borough.			
SW/04/1389	Variation of condition 2 of SW/04/0124 to allow stationing of touring caravan and erection of	Granted.	2004

	shed.		
SW/04/0124	Variation of condition (iii) of planning permission SW/96/0329 to allow the stationing of a third mobile home of the site.	Granted.	2004
SW/96/0329	Residential caravan pitch for one gypsy family (two caravans).	Granted.	1996

1.0 DESCRIPTION OF SITE

- 1.01 The application site is an existing authorised gypsy / traveller site located on Otterham Quay Lane, close to the Borough boundary with Medway. The site lies on the eastern side of the road, immediately to the north of the Three Sisters pub. It is rectangular, measuring approximately 92m deep by 15m wide and, due to changing land levels, is set slightly down from the pub. The front of the site is enclosed by brick entrance features and iron gates, and the site is enclosed on the three remaining sides by tall fencing and brick walls. The majority of the site is covered with brick paving, and there are two grassed areas to the front, adjacent to the gates.
- 1.02 To the south of the site is the Three Sisters pub, where an access road to parking at the rear of the pub runs the full length of the boundary. To the north is another residential gypsy / traveller site, but it appears to have been unused for many years and two caravans on the land are in poor condition. To the west are open fields, to the east is a residential dwelling known as 1 Mackland Cottages, and a residential estate (Littlefield Road and Homefield Drive) lies to the southwest.

2.0 PROPOSAL

- 2.01 This application seeks retrospective permission to vary the terms of condition 2 of planning permission SW/13/0706 to allow a maximum of 4 static caravans and 4 touring caravans to be stationed on the site at any one time. (SW/13/0706 is the current overarching permission for the site, with condition 2 restricting the number of caravans permitted on the site, but it is worth noting that three static caravans (and one tourer) were original permitted in 2004 under SW/04/1024.)
- 2.02 Condition 2 of SW/13/0706 states that *“the site shall not be used for more than three residential mobile homes and one caravan at any one time.”*
- 2.03 The static caravans are set in a line along the southern boundary, and the submitted block plan shows space for touring caravans to be stationed opposite them along the northern boundary. The existing utility block (a converted stable building) is positioned along the eastern boundary, and a timber storage / utility building is positioned along the southern boundary between the two middle static caravans. An existing area of lawn is retained at the front of the site, behind the gates.

3.0 SUMMARY INFORMATION

	Proposed
Site Area	1,401sqm / 0.1ha
No. of static caravans	4
No. of touring caravans	4
Parking Spaces	Min. 4

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

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

5.01 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.

5.02 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and*

5.03 In relation to rural housing paras. 78 and 79 of the NPPF aim to restrict new housing in "isolated" locations where it would be unsustainable and wouldn't contribute towards the vitality of existing settlements.

5.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, advises that valued landscapes and the intrinsic character and beauty of the wider countryside should be protected, while biodiversity and despoiled land should be improved.

Planning Policy for Traveller Sites (PPTS)

- 5.05 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)*

- 5.06 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)*

5.07 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)

5.08 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”*

“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 5 year 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.

- 5.09 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.”

Swale Landscape Character and Biodiversity Appraisal SPD 2011

- 5.10 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Upchurch and Lower Halstow Fruit Belt area, where the document advises that the landscape should be “conserve and create” through conserving important views and landscape structures, and use of traditional local materials. However I do not consider that landscape impact is a significant potential objection to development here.

Bearing Fruits 2031: The Swale Borough Local Plan 2017 (adopted 26 July 2017)

- 5.11 Policy DM10 (Gypsy and Traveller sites) largely relates to the retention of existing sites and the provision of new sites, with little commentary on applications to extend existing sites or increase the number of caravans, as applied for here. The policy does set out, however, that applications related to gypsy and traveller sites should not cause harm to visual or residential amenity; achieve safe levels of parking; be safe from flooding; and not introduce a scale of development that (in cumulation with other developments) dominates nearby settled communities.
- 5.12 Other relevant Local Plan policies are:
- CP4 (good design) requires all developments to be of a high standard of design and to contribute positively to the character of the area.
 - ST3 (The Swale settlement strategy) seeks to guide development to sustainable locations, close to shops, services, and amenities, in preference to less sustainable rural locations.
 - DM6 (vehicle access) sets out that all new developments need to provide safe, appropriate access to the highway network.
 - DM7 (vehicle parking) sets out that all development needs to provide appropriate levels of vehicle parking.

6.0 LOCAL REPRESENTATIONS

- 6.01 Seven letters of objection have been submitted by local residents, raising the following summarised points:
- Discrepancy in the description [NB: description has been clarified with the agent, and corrected];
 - There have been frequent changes of occupancy, which does not encourage social cohesion;
 - Noise and disturbance from the site;
 - Allegations of anti-social behaviour at the site;

- There was a large number of caravans (up to 11) on the site for a considerable period (3 months) prior to the submission of this application, followed by a serious fire, which highlights the dangers of having too many units on the site;
- Additional units would exacerbate the danger of fire spreading and prevent safe egress from the site;
- The site is close to the junction of Otterham Quay Lane and Lower Rainham Road, and additional vehicles may pose a highway safety risk;
- *"Given the number of permitted traveller sites in Swale, I do not see any justification to increase the numbers further on this site;"*
- Impact on local property values;
- There is a large gypsy/traveller site on Oak Lane, no need to add further units here;
- Caravans sit very close to tall conifers, and electrical supplies are running through the trees – should be permanently wired in to mains;
- Fire risk to adjacent properties;
- Shouldn't be classified as travellers if they live permanently on one site;
- Additional touring caravans will reduce turning space on site;
- Site too small for additional caravans;
- Not possible to achieve required spacing between static units;
- Limited emergency services access;
- Additional gas bottles on site would be an increased hazard;
- Additional pollution from use of gas bottles; and
- The Council would not grant planning permission for 9 houses on the site.

7.0 CONSULTATIONS

7.01 Upchurch Parish Council objects to the application, commenting:

"Upchurch Parish Council strongly objects to this application. We are very concerned about the over population of such a small site.

It is unclear whether the touring caravans mentioned in the application are to be lived in on the site or are for the residents of the proposed 4 static caravans to travel in?

The Council and surrounding residents of the site have grave concerns following the recent fire on the site (residents had to assist the occupants to safety), with regards to the Health and Safety issues. A large amount of commercial vehicles are regularly on the site and there is already overcrowding of caravans containing gas cylinders etc.

It would appear from prior applications that the site is for family members use only. Is the proposed static caravan for a family member?

There are also concerns with regards to drainage facilities for this amount of occupants, as far as the Council are aware there is no main drainage on site."

7.02 The Parish Council submitted further comments following re-consultation in 2017, maintaining their objection:

"Upchurch Parish Council has considered the application and strongly objects to the proposal. Councillors have very serious safety concerns as there is insufficient room to have so many units and people on the site.

Last year there was a fire on the site and part of a fence had to be removed to allow the residents to evacuate the site. Two of the vans were burnt out and another van had melted due to the intensity of the heat. Neighbours helped to move other vans away from the fire but the vans could not be evacuated properly. There is insufficient space between the units to be safe and gas cylinders and petrol is stored on the site increasing the risk should another fire occur.

The plan does not show the stable block at the back and the scale of the drawing is misleading.

The Parish Council is concerned about the density of the site and that there is insufficient room to put static vans and to be able to evacuate safely. There have been complaints from residents about the volume of traffic.

The Council's previous objections still stand as there is insufficient reduction in the number of units to make a material difference."

- 7.03 KCC Highways & Transportation have no comments other than noting the scale of development falls below their protocol response threshold.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is supported by relevant plans and drawings.

9.0 APPRAISAL

Principle

- 9.01 The principle of the use of the land as a residential gypsy / traveller caravan site has been established for over twenty years, following the grant of permission in 1996 under ref. SW/96/0329. At present a total of three static caravans and one touring caravan are allowed on the site, as approved in 2013 by SW/13/0706 (and also in 2004 under SW/04/1024, as above). These can be occupied by any gypsy or traveller, and are not restricted to a personal permission. The fundamental use of the land therefore can't be challenged under this application.
- 9.02 What this application seeks is to intensify the approved use through the stationing of an additional caravan on the site, for a total of four static caravans and four associated touring caravans, still to be used by gypsies / travellers. In that regard the applicants are known to officers as local gypsies and I have no reason to, or evidence before me, to contradict that.
- 9.03 I note local objections suggesting that the Council would not permit bricks and mortar housing on the site. This is true, but the legislation is clear that gypsy / traveller accommodation may be acceptable in rural locations where conventional housing may not. In that regard Members should give such comments little weight.

Layout and residential amenity

- 9.04 The additional static caravan would be placed on the southern boundary in line with the existing caravans. Each static caravan would be a minimum of 6m from the next (in order to comply with site licencing requirements, outside of the planning process); the front unit would be set back a minimum of 22m from the access gates; and each of the static caravans would be a minimum of 2m from the southern site boundary.

There is approximately 9m to the front of each static caravan to the northern boundary, which is sufficient space to park four touring caravans in a line and maintain vehicle and pedestrian access down the centre of the site. Vehicle turning space is available at the front of the site, adjacent to the grass lawn area, which itself provides a private outdoor amenity space.

- 9.05 The additional caravan is required to cope with family expansion, so living in relatively close proximity to one another would not be a significant concern for the applicants. But it is evident from the above that there is sufficient space on the site to comfortably accommodate a fourth static and four tourers without the site being cramped, or overcrowded, or seriously affecting the amenity of the residents. In that regard I have no serious concerns, disagree with the Parish Council's objections, and do not consider that there are any justifiable grounds for refusal on the basis of layout, overcrowding, or overdevelopment of the site.
- 9.06 An additional static and touring caravans for residential use would not, in itself, give rise to any serious amenity issues for neighbouring residents over and above the approved use. I note objections for residents raising concern about noise and disturbance from the site, but this could be true of any residential property and could be considered by the Council's environmental wardens if any complaints were received. Allegations of anti-social behaviour are not a planning consideration and should be pursued through other channels if/when necessary.

Visual amenity

- 9.07 The addition of caravans (one static and three tourers) to an existing approved site would have little impact upon the character and appearance of the street scene and the wider countryside, in my opinion. Particularly so given the linear layout of the site, whereby the caravans are behind one another as viewed from the road and additional caravans would therefore not be overly prominent or intrusive in views from any public vantage point. The existing entrance gates and walls also succeed in partially screening the site from the road. I have no serious concerns in this regard.

Highways and parking

- 9.08 The site has an existing approved vehicle access on to Otterham Quay Lane. Because the additional caravans are to cope with family expansion in real terms there will be no additional vehicle movements to/from the site over the existing lawful use – the dependants living in the additional static would have been coming and going from the site in any instance.
- 9.09 As set out at 9.04 above there is ample space on site to accommodate vehicle parking (for at least one vehicle per unit) and turning while maintaining clear access down the centre of the site. Vehicles can be parked between the static caravans if required, and the frontage turning area measures roughly 19m x 9m, which is more than sufficient to allow for both parking and turning.

Ecology

- 9.10 The application seeks consent for an additional unit of accommodation and the site lies within 6km of the SPA. A SAMMS contribution (£245.56) is therefore required to mitigate potential impacts upon the SPA and must be secured before consent can be granted. If Members are minded to grant permission this can be secured by completion of a simple pro-forma.

Other matters

- 9.11 I note objections from locals and the Parish Council in respect of a fire on the site some time ago. However, the layout shows the caravans appropriately spaced (min 6m between each) and with an access aisle down the centre of the site, and this is as far as the matter can be considered under the planning regulations.
- 9.12 I understand local concern regarding impact upon local property values, sewage, storage of gas bottles and petrol, and pollution from use of gas bottles but these are not planning considerations and can't be given any weight here, unfortunately.

10.0 CONCLUSION

- 10.01 This application seeks permission to site an additional static caravan and touring caravans on an existing residential gypsy / traveller site, for a total of 4 statics and 4 tourers. The caravans would be appropriately spaced, sufficient parking and turning is available on the site, and the development would not give rise to any serious issues of residential amenity, highway safety, or additional harm to the character or appearance of the countryside.
- 10.02 I therefore recommend that planning permission should be granted subject to receipt of a standard SAMMS payment (and completion of the accompanying pro-forma).

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 2) The site shall not be used for more than four static caravans and four touring caravans at any one time.

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

- 3) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, no vehicle over 3.5 tonnes and no more than one 3.5 tonne vehicle shall be stationed, parked or stored on the land.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 4) The development hereby permitted shall be carried out in accordance with the following plan: BP-03-2019.

Reason: To accord with the application and in the interests of proper planning.

THE COUNCIL'S APPROACH TO THIS APPLICATION

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed, and the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, www.planningportal.co.uk (search for 'discharge of conditions').

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.

