

PLANNING COMMITTEE – 11 JUNE 2015

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 14/500247/FULL			
APPLICATION PROPOSAL Retention of use of land for the stationing of two mobile homes, one day room, one utility room and four touring caravans.			
ADDRESS Greenacres Holywell Lane Upchurch Kent ME9 7HP			
RECOMMENDATION: Grant temporary planning permission subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION: The site is in a relatively sustainable location, is not in any specially designated area and performed well in the Council's new site assessment. It is, however, located in close proximity to several other sites and close to two public footpaths resulting in the site being visually prominent from public viewpoints in the rural landscape			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Hartlip, Newington & Upchurch	PARISH/TOWN COUNCIL Upchurch	APPLICANT Mr P Delaney & Mr M Delaney AGENT Mr Keith Plumb	
DECISION DUE DATE 01/08/14	PUBLICITY EXPIRY DATE 01/08/14	OFFICER SITE VISIT DATE 15/08/14	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	
SW/98/0465	Change of use to stationing of caravan	Refused and dismissed on appeal	
SW/01/0561	Change of use of site from grazing to residential with stationing on one mobile home, one touring caravan, a utility room, store, toilet, poultry shed and feed store	Refused planning permission, personal permission allowed on appeal. This permission showed the northern and southern site boundaries as the same as those under the current application with the frontage of the site along Holywell Lane	

<p>SW/04/1049</p>	<p>Variation of condition of the 2001 application that restricted the number of static caravans to one to allow the stationing of a second caravan. This application showed the site as being slightly smaller, omitting the northern corner from the application site (the area where the original static caravan is stationed). Therefore the second caravan cannot be stationed on the original Greenacres site, only within part of the current application site. The permission, is however, personal to the original applicant and therefore could not be occupied by the current owners of the site</p>	<p>Approved</p>
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MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is located in a rural lane immediately adjacent to the existing, original Greenacres site. The original Greenacres site incorporated the site the subject of this application, the now adjacent site and land to the rear of the current site. This permission, although personal, did not restrict the caravan to be sited in any particular location on the site. Since then, the original owner has divided the site, retaining the northern part for his own caravan and selling the remaining part to the applicants. The second caravan permitted by an earlier variation of condition has been removed and could only be sited in the area of the current application site, not in the part of the site retained by the former owner. Therefore it is unlikely this would ever be implemented as the original permission was personal and the applicant no longer owns the site.

- 1.2 The site is raised above Holywell Lane, and views into the site are quite restricted from the lane by the height of the land, the narrowness of the lane and by mature planting. However, two public right of way footpaths run close to the site – one immediately adjacent to the original Greenacres site, which runs from Holywell Lane to the centre of Upchurch and the other runs to the south of the site again from Holywell Lane to the centre of the village which offer far reaching views across the site.

- 1.3 The existing access has been retained and is used by both the existing site and proposed site

2.0 PROPOSAL

- 2.1 The current application seeks planning permission retrospectively to retain all of what is on the site, which amounts to two static caravans, four touring caravans, a day room and a utility building. However, the current application excludes the northern corner of the site which contains the original static

caravan for which permission was granted in 2001. As such, if this permission were to be granted, it would be allowing an additional static caravan and three additional tourers.

- 2.2 Members may be aware that an enforcement notice has recently been served on the owners relating to the formation of an additional access and laying of hard standing. This does not form part of the proposal and is being dealt with separately. The applicants' agent has advised me that there is no intention to permanently subdivide the site and that he will be working with the Council to resolve the outstanding enforcement issue.

3.0 PLANNING CONSTRAINTS

- 3.1 The site is not subject to any planning constraints.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) and Planning Policy Traveller Sites (PPTS) and the Development Plan (saved policies of the Swale Borough Local Plan 2008):

- 4.2 The national policy position comprises of the National Planning Policy Framework (NPPF) and Planning Policy Traveller Sites (PPTS). Both documents were released in 2012. Together they provide national guidance for Local Planning Authorities on plan making and in determining planning applications. 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 Council's 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.

- 4.3 Whilst regard has been paid to all of the guidance as set out within the NPPF, the following extracts are particularly relevant to this application:

"2.31 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. (Para 7 NPPF)*

4.4 Whilst regard has been paid to all of the guidance as set out within the PPTS, the following extracts are particularly relevant to this application:

“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:

- . *that local planning authorities should make their own assessment of need for the purposes of planning*
- . *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- . *to encourage local planning authorities to plan for sites over a reasonable timescale*
- . *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- . *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- . *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- . *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- . *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- . *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- . *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- . *for local planning authorities to have due regard to the protection of local amenity and local environment (para 4 PPTS)*

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

- . *promote peaceful and integrated co-existence between the site and the local community*
- . *promote, in collaboration with commissioners of health services, access to appropriate health services*

- . *ensure that children can attend school on a regular basis*
- . *provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- . *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*
- . *avoid placing undue pressure on local infrastructure and services*
- . *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- . *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 11 PPTS)*

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 21 PPTS)

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

- . *the existing level of local provision and need for sites*
- . *the availability (or lack) of alternative accommodation for the applicants*
- . *other personal circumstances of the applicant*
- . *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*
- . *that they should determine applications for sites from any travellers and not just those with local connections (para 22 PPTS)*

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 (para 23 PPTS).

- 4.5 The Council has responded positively and quickly to the change in the national policy position in respect of Gypsy and Traveller accommodation. The LDF panel quickly 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 during the plan period (adjusted down from 85 pitches in reflection of those sites granted consent whilst the document was under preparation). This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 consultation document in August 2013 with a policy introducing provision for pitches on

major housing development and criteria for any potential windfall applications that might come forward.

- 4.6 Shortly after that the Council quickly begun work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only.
- 4.7 The GTAA (2013) sets out a target of 85 pitches by 2031 and suggested phasing for the delivery of sites, a figure of 35 pitches in the first five years.
- 4.8 The overall need figure was reduced to 82 as three pitches were granted permanent permission during the production of the study. The Council is intending to identify pitches to meet this need through housing allocations in the emerging Local Plan and via a specific Gypsy and Traveller Site Allocations DPD.
- 4.9 Over 40 pitches have already been granted planning permission in the first two years; however almost all of these are already occupied meaning that although they come off the need figure, they are no longer available. As such, the Council are not currently able to demonstrate a five year supply of sites. The remaining need will be provided either through pitch provision on Local Plan mainstream housing allocations or specific Gypsy allocations in a separate DPD. The Local Plan is due for its Examination in September which will validate the Councils approach and effectively allocate a number of pitches per housing site.
- 4.10 Until these allocations are adopted or progressed the Council will be reliant on windfall planning permissions to meet the need.
- 4.11 Given the above, the Council does not consider it is currently able to demonstrate a five year supply, of available pitches. As such, paragraph 25 of Planning Policy for Traveller Sites is engaged, and there are grounds for considering the grant of temporary planning permission on the basis that such a supply cannot be demonstrated

5.0 LOCAL REPRESENTATIONS

Residential Objections

Number received: 1 – comments can be summarised as follows:

- Disagree with proposal for more caravans on green area in Holywell Lane
- Already 12 units within 500 yards
- Used to be classed as a landscape area – not now
- Will be demand for more caravans in years to come as children grow older
- Cyclists use route and horse riders and can be busy

6.0 CONSULTATIONS

Parish Council comments can be summarised as follows:

- Now know this is to permit a second site, not expansion of original site so strongly object
- Address very misleading

7.0 APPRAISAL

Applicant's Gypsy Status

7.1 A key issue to be considered is the status of the applicant as a gypsy or traveller. The PPTS provides a definition of gypsies and travellers as:

“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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

7.2 I note that no representations have been received disputing the applicants gypsy status, and with no evidence to contradict that provided by the applicant, I recommend that Members accept the gypsy/traveller status of the applicant and determine the application in this light.

Principle of development

7.3 The proposed development on the site is located outside flood zones 2 and 3. It is not located in a nationally designated area relating to landscape or biodiversity. It is not within or near to a conservation area or listed building. There is no known contamination issue at the site. The PPTS states that sites in open countryside away from settlements should be strictly controlled. In my view this policy has three purposes which are to minimise visual harm to the countryside, ensure sites are not isolated from the settled community and ensure sites are sustainably located.

7.4 The site is located within a reasonable distance of two primary schools in Upchurch and Newington, the Co-op shop and Gore Farm Farmshop, the Doctors surgery in Upchurch and the public transport links in Upchurch (bus stop) and Newington (bus and train station). The site is not within a reasonable distance of a secondary school or dentist, both of which can be found in Rainham. However, all of these facilities would likely be required to be accessed by car due to the rural nature of the lane which is unlit and has no pavements. In my view, the site is in a reasonably sustainable location in terms of the meaning as set out within the NPPF.

7.5 Whilst the site is slightly remote and removed from some facilities, other facilities are within a reasonable distance and I do not therefore consider this amounts to an isolated site.

- 7.6 The site also performs well when assessed against the Council's new site assessment methodology meeting a majority of the positive requirements for site suitability.
- 7.7 Whilst clearly there are a number of gypsy/traveller sites in the Upchurch area, this site taken cumulatively with others, or individually on its own merits would not dominate the nearest settled community in terms of the meaning set out within the PPTS. Equally, I do not consider that it would place undue pressure on the local infrastructure.
- 7.8 I consider use of the site to be acceptable as a matter of principle.

Character and appearance of the countryside

- 7.9 I note the comments made by the Parish Council in respect of the sub-division of the site. They originally raised no objection to the application but revised their comments when they realised that this part of the original site was now in separate ownership. They do not specifically say what their concerns are in this regard, however, I do not consider the site now being in separate ownership materially alters the impact of the proposal.
- 7.10 The application site falls within the Upchurch and Lower Halstow fruit belt area of the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD). In this area it is advised to look for opportunities to create features to restore a strong landscape structure with tree and hedge planting. The SPD states that the overall aim should be towards conservation and creation of the landscape. Landscaping of the site, in accordance with the above conditions would assist in this respect.
- 7.11 The site is located near to a number of other gypsy sites in the area, which when taken as a whole have had an impact on the rural nature of the area. Whilst individually they may not result in significant harm to the character of the countryside, taken collectively they have resulted in a marked degradation of the previously unspoiled rural character. This forms a small cluster of residential development on the outskirts of Upchurch. Notwithstanding that, this site is enclosed by two public footpaths, one of which abuts the original Greenacres site and runs along the length of the site and beyond offering views back into the site, and the other is set slightly further away from the site, although would still offer views back into the site and distant views of other sites in the vicinity. As such, I consider the proposal does result in some harm to character of the countryside by introducing additional development that is prominent in the rural landscape from public viewpoints.
- 7.12 It is for this reason that I am recommending that a temporary permission be granted and not permanent.

Highway safety and convenience

7.13 The proposal uses the existing access, and whilst this would result in a small intensification of the access, it would not be significant. I therefore do not consider the proposal would result in any significant harm to highway safety or convenience.

Other material considerations

7.15 The site is well removed from residential properties therefore any impact on residential amenity would be minimal in my opinion.

7.16 In respect of five year supply, the Council has made great progress since the adoption of our GTAA under two years ago and has permitted significant amounts of pitches in that time resulting, however, taking into consideration the fact the Council cannot currently demonstrate a five year supply of sites combined with the uncertain position that has been given by various different inspectors on this matter, I consider this requires the Council to consider the grant of a temporary permission in this case.

8.0 CONCLUSION

8.1 Having considered the application against national and local plan policies, I am of the view that the use of this site on a temporary basis for Gypsies and Travellers would be acceptable. The site performed well in the Council's assessment and is suitable in many respects and is away from sensitive areas.

8.2 Whilst a few services/amenities are not within 2km of the site, these do not in my view demonstrate that the site is in an unsustainable location, or amount to a sufficient reason to refuse planning permission, and to do so would be contrary to the provisions of government planning guidance, especially the PPTS. The harm to the character and appearance of the countryside is of some concern, however, not of such significant harm to warrant refusal of a temporary permission and there would not be significant harm to residential amenity or highway safety and convenience.

8.3 Accordingly, the proposed use of this site is considered acceptable and I recommend that temporary planning permission be granted.

9.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby approved shall be laid out in accordance with approved block plan DE/14/142.03.

Reasons: For the avoidance of doubt and in the interests of proper planning.

- 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, and if the site ceases to be occupied by such persons the use shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use shall be removed and the land restored to its former condition.

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

- 4) No more than two static caravans and four 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.

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

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

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

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

- 7) 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.

- 8) Prior to the commencement of development hereby approved, full details of both hard and soft landscape works, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, to include native species, noting species, plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- 9) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

- 10) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

- 11) Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reasons: In order to prevent pollution of water supplies.

- 12) Any floodlighting or security lighting shall be so sited, angled and shielded as to ensure that the light falls wholly within the curtilage of the site and such lighting shall be of an intensity and type to be approved by the Local Planning Authority before it is first used.

Reasons: To protect the visual amenities of the area.

10.0 THE COUNCIL'S APPROACH TO THIS APPLICATION

- 10.1 The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales. In this case the application was considered to be acceptable as submitted and no further assistance was required

Case Officer: Claire Dethier

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.