

2.6 REFERENCE NO - 14/503384/FULL			
APPLICATION PROPOSAL Permission is sought for change of use of land to residential caravan site, for one Gypsy Traveller family.			
ADDRESS Windmill Farm Yaugher Lane Hartlip Kent ME9 7XE			
RECOMMENDATION – Grant Temporary Planning Permission			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The site is not in any specially designated area, but it is in a relatively isolated location. However, the Council is currently unable to demonstrate a five year supply of available sites.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Newington & Upchurch	Hartlip,	PARISH/TOWN COUNCIL Hartlip	APPLICANT Mr Mark Curtis AGENT Mr Joseph Jones
DECISION DUE DATE 14/10/14	PUBLICITY EXPIRY DATE 14/10/14		OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/13/0277	(Relates to land to northwest of the current application site the subject of this report) Change of use for the siting of two mobile homes; the erection of two utility blocks; and associated brick wall, fencing, parking and landscaping for use by a gypsy family.	Temporary 3 year permission granted – expires July 2016	July 2013

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is located in a remote rural area outside of any defined built up area boundary, outside of any village and a significant distance from services. The site is approximately 2.2km from the A2 and even further to any village with services.
- 1.2 The site abuts open countryside to the north and east, whilst to the west it abuts the boundary of a temporary gypsy site (ref SW/13/0277) and an access track to the south with a pair of cottages just beyond. The site is covered in hard standing (type one with small stones on top) and according to the applicant’s agent this was carried out in excess of 4 years ago. There is also a concrete base for a static caravan and connections to drainage built in. A 1.8m high close boarded fence encloses the site to the northeast and southwest boundaries.

1.3 The site has an existing entrance from Yaugher Lane. The M2 lies to the south of the site, beyond Windmill Farm and Oak Barn Cottages, and to the south of the motorway is the Queendown Warren SSSI and the AONB. The site would appear to be just about large enough to accommodate a static caravan, tourer and parking space at 286 sq.m in area.

2.0 PROPOSAL

2.1 This application seeks planning permission for the change of use of the site to a residential caravan site for one gypsy/ traveller family. The accommodation would comprise of one static caravan , one touring caravan and a parking space would be provided for one vehicle with associated hardstanding and septic tank.

2.2 The application is accompanied by a design and access statement and information in support of the application.

2.3 The statement explains that the application is made by the applicant for himself and his family. It goes on to explain that the applicant is a member of the gypsy and traveller community and has gypsy status and that the family are a well known Romani gypsy/ traveller family.

2.4 The statement continues to comment that it is important that they have a stable place to live, particularly in respect of access to healthcare.

2.5 The statement also goes into detail as to why they consider the site to be sustainable and states;

- There is a house nearby which is residential
- The site has a mains water supply
- A septic tank (or similar) would be installed in line with British standards
- Surface water would be disposed of via natural percolation
- The site is close to Hartlip
- The site has good and safe access to primary and other main roads and to the principle and major urban areas in this part of the County
- There is reasonable screening around the site which will improve as the trees and bushes become more established, however, the applicant is happy to do further planting as required
- The site is affordable (all costs at the expense of the site residents) and would have no financial impact on the local authority or the Council's tax payers, while at the same time it would reduce the need for sites which the LA should provide for the gypsy traveller community
- The NPPF makes it clear that there is a presumption in favour of sustainable development and in our opinion that adds weight to this application.

2.6 The statement also comments that visual impact would be minimal.

3.0 PLANNING CONSTRAINTS

3.1 The site is not in an area covered by 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 11PPTS)*

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).

Subject to the implementation arrangements at paragraph 28, if a local planning authority cannot demonstrate an up-to-date five-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 planning permission (para 25 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). There was a suggested phasing for the delivery of sites, a figure of 35 pitches in the first five years. 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 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.
- 4.8 Until these allocations are adopted or progressed the Council will be reliant on windfall planning permissions to meet the need.
- 4.9 Given the above, and the fact that the Council does not consider it is currently able to demonstrate a five year supply of available pitches, paragraph 25 of Planning Policy for Traveller Sites is engaged, and there are grounds for considering the grant of temporary or permanent planning permission on the basis that such a supply cannot be demonstrated.
- 4.10 Other relevant planning policies within the Swale Borough Local Plan 2008 are: E1 (general development criteria); E6 (countryside); E7 (Strategic gap); E9 (landscape); E11 (biodiversity); E19 (design); H4 (accommodation for Gypsies) and; T3 (vehicle parking standards).
- 4.11 The emerging Local Plan – Bearing Fruits 2031 is a material planning consideration. Relevant policies within this document are: DM7 (vehicle parking); DM10 (Gypsy and Travellers sites); DM14 (general development criteria); DM24 (conservation and enhancement of valued landscapes).
- 4.12 Other legislation of particular relevance to planning applications involving gypsies is as follows:

Human Rights Act 1998

s6(1) – comply with the European Convention

The key part of the Convention to consider is article 8;

“Everyone has the right to respect for his private and family life, his home and his correspondence.”

Children’s Act 2004

In addition to taking into account the race equality duty, Local Planning Authorities have a duty to safeguard and promote the welfare of children under section 11 of the Children’s Act 2004.

Equalities Act 2010

Public sector equality duty which forms section 149 of the Equalities Act 2010

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

Housing Act 2004

One of the key factors which Local Planning Authorities must take account of is the duty to carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to their area, and then take the strategy into account when exercising their functions. This duty is covered by section 225 of the Housing Act 2004.

5.0 LOCAL REPRESENTATIONS

Hartlip Parish Council raise objection and make the following points;

- Object in strongest terms
- Contrary to NPPF & SBC Local Plan and not sustainable
- E1 seeks to ensure development enhances the natural environment. This is in close proximity to Queendown Warren (an AONB)
- Contrary to E6 which seeks to protect and enhance amenity value of wider countryside and E7 as is within strategic gap and E9 which expects proposals to be sympathetic to local landscape character and safeguard landscape
- Its noted the five year pitch provision has been achieved – no need for such development
- The site is visible from conservation area and the existing site is an eyesore and can be seen from a mile away
- Mr Pickles recently announced England's most valuable countryside will be shielded from development
- Area has for hundreds of years been a favourite walking area – important it remains
- Residential development would not be allowed here

Nine letters of objection have been received from neighbouring residents. Their comments can be summarised as follows;

- SBC met 5 year supply
- There are existing sites and brown field sites in Swale should be used first/ more suitable sites
- Over 2km to doctors, bus stop, train station and shop. No facilities here/ remote location/ poor access to facilities including education
- Is a valued green field site in open countryside
- Would have detrimental visual impact/ elevated position visible from many places a mile away
- Already a neighbouring site with planning permission

- Existing caravans already dominate the view
- Urge planning officers to view from any property in South Bush lane
- This applies to joggers, walkers, cyclists etc who frequent area
- Screening not an option due to elevated position
- Understood no more caravans would be allowed at this site
- Application states little extra traffic – disagree already traffic problems
- Lighting would cause problems
- Appears to be more and more caravans in this area – want to see control
- Caravans on grade 1 land
- If was housing would feel the same
- Has gypsy status been validated?
- What are the pressing medical conditions?
- Landscaping will not prevent views
- Have all the conditions of the previous application been met?
- Area of land is large – this will continue
- Walking is not an option
- This area has 8% of the population, but nearly 40% of the traveller sites
- Applicant says nothing about children – are they to be considered?
- Schools in the area are oversubscribed
- No mains drainage or gas – need large vehicles to deliver etc
- Close to conservation area with listed buildings
- Caravan already provided on site

1 letter of support has been received which disagrees with several points made by the objectors including;

- Distance to doctors and bus stop irrelevant
- 1 or 2 extra cars would not cause extra traffic
- Can't see how lighting would affect people 1.5 miles away
- Not grade I agricultural land or green field
- Does not believe objector being truthful

6.0 CONSULTATIONS

6.1 Natural England raises no objection but recommend we refer to their standing advice on protected species.

6.2 Kent Highways have no objection to the proposal subject to a condition to ensure provision and retention of parking spaces.

7.0 APPRAISAL

Applicants 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 have no reason to dispute the applicant’s gypsy status and particularly in light of the fact the application is submitted by the Gypsy Council. Equally I have not been provided with any evidence to the contrary.

Principle of development

- 7.3 The site is not located in an area at risk of flooding, nor is it located in a nationally designated area relating to landscape or biodiversity although I do note the presence of the AONB and SSSI to the south of the motorway. However, due to the separation distance, intervening buildings and landscaping, I do not believe that this development would have any significant impact upon either of those designated areas.
- 7.4 As set out above government policy states that sites in the open countryside, away from settlements should be strictly controlled. In my opinion, this strand of the new policy has three purposes. Firstly, it seeks to ensure that visual harm to the countryside is minimised. I deal with the visual impact of this proposal below.
- 7.5 Secondly, I consider that it seeks to ensure that sites are not isolated from the settled community. This site is located some significant distance from the settlements of Hartlip, Newington and Upchurch. Whilst there are the two dwellings fronting Yaughner Lane in close proximity, I would find it difficult to argue that this site is not in an isolated location.
- 7.6 Thirdly, in my view, it seeks to ensure that sites are approved in sustainable locations. This site is located a walking distance along main roads of some 3.9km from the shops and services in Newington, and over 4km from Upchurch. The site is not readily accessible via public transport and the occupants will have to rely on the private car for all their journeys. In my view, the site is not in a sustainable location.
- 7.7 I have assessed the site against the criteria in the Council’s new site assessment for gypsy and traveller sites (see appendix A).
- 7.8 As above, the site is not located in a designated area nor is it in a flood zone, conservation area or near to a listed building (although I note local concern on these points, the site is sufficiently far away from either to have very limited impact). However, Members will note from the site assessment that it falls within the ‘red’ category for accessibility to services. This is largely due to the fact that it is remotely located from any shops, services or public facilities. There is a primary school in Hartlip (although I am not aware of the availability of places therein), but residents will need to travel by private car to Rainham or Newington for all other services. This is contrary to the Council’s wider aims of sustainable development and according to the site assessment, permanent planning permission should not be granted. However, as noted above (refer to para 25 of the PPTS), this is not sufficient in my opinion to justify refusal of

temporary planning permission in the absence of a 5 year supply of deliverable gypsy sites (see paras. 4.7 - 4.9 above).

Visual Impact

- 7.9 The site is positioned on elevated ground with some views from the highway and public vantage points to the north. It is, however, situated to the front of a cluster of existing dwellings (Oak Barn Cottages) and agricultural / equestrian buildings (Windmill Farm). There is also a stable building being constructed to the side of the current application site and a dense screen of trees and vegetation between the site and the highway.
- 7.10 I therefore suggest that it would be unfair to consider the site as if it were a development in isolation. The context of the area must be taken into account and that context is of a cluster of buildings set amongst tree planting and hedging.
- 7.11 I do not consider it reasonable or necessary to require a landscaping scheme at this site for a number of reasons. Firstly, the permission recommended would be for a period of three years only and it is arguable whether a landscaping scheme would mature sufficiently in this time to offer any softening or screening benefit. Secondly, the site is very limited in size and it would be difficult in my view to provide a screen of vegetation wide enough to offer any real value. Thirdly, the site is already screened to some extent by the existing 1.8m high close boarded fence and lastly, the site is not prominent within the landscape or from the highway in my view.
- 7.12 I do not therefore consider that the proposed development would have a significant detrimental impact on the visual amenities of the area or the character and appearance of the countryside.

Residential amenities

- 7.13 The application site lies adjacent to the residential properties known as Oak Barn Cottages, but separated by garden and the access track to Windmill Farm. This separation distance will help to minimise the potential for any overlooking, loss of privacy or noise and disturbance to either existing or proposed properties.
- 7.14 Furthermore it should be noted that the access track serves the existing dwellings, the DIY livery at Windmill Farm, the stables adjacent to the application site and the proposed mobile homes. I do not believe that the additional traffic along the access track from this scheme would give rise to any serious disturbance over and above the current levels of activity.
- 7.15 Following on from that I would reiterate that, whilst local concerns are noted, Kent Highway Services have identified no objections in respect of highway safety and amenity and I do not expect this application to present any causes for concern due to the relatively low level of vehicle movements generated by such uses.

Other issues

- 7.16 The site has already been covered in a hard surface and as such the likelihood of the land being used as habitat for protected species is minimal. I therefore do not consider that any survey work is required.
- 7.17 The applicant has not provided any specific information in respect of their health needs or those of their dependents. However, at this stage, I do not consider that this is fundamental to the consideration of the application.

Recommendation

- 7.18 Having considered the application against national and local plan policies and the Council's Corporate Policy, I am of the firm view that the use of this site on a permanent basis for Gypsies and Travellers would be unacceptable. The site is situated far from any facilities or amenities.
- 7.19 However, I believe, that this does not amount to a sufficient reason for refusal given this Council's position on the 5 year supply of deliverable gypsy sites. To refuse planning permission without due consideration given to the lack of a 5 year supply of deliverable sites would be contrary to the provisions of government planning guidance - para. 25 of the PPTS. This Council will not be in a position to demonstrate this supply imminently and so I recommend that a three year temporary permission is granted in this case.
- 7.20 I note local opposition to the application, but I consider the potential for serious harm to local residential amenity, highway safety, or the character and appearance of the countryside to be minimal.

8.0 RECOMMENDATION – GRANT Subject to the following conditions

1. The use hereby permitted shall cease on or before three years from the date of this permission.

Reasons: In order that the position may be reviewed at the end of the period state.

2. The development hereby approved shall be laid out in accordance with approved block plan BP-01.

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 one static caravan and one touring caravan 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 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.

Grounds: In order to prevent pollution of water supplies and to ensure that such matters are agreed before work is commenced.

9. Prior to the commencement of development hereby approved, details of parking and turning within the site shall be submitted to the Local Planning Authority for approval in writing. These approved details shall be implemented prior to the first occupation of the site and the approved parking and turning space shall be kept available for this purpose 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 such land or in a position as to preclude vehicular access thereto.

Reason: 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

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 outcomes and as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

Case Officer: Emma Eisinger

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.