

2.7 REFERENCE NO - 15/502716/FULL			
APPLICATION PROPOSAL Change of use of land to single gypsy pitch and associated development			
ADDRESS Breach Farm Paddocks Land North-east Of Breach Farm Bungalow Breach Lane Upchurch Kent ME9 7PE			
RECOMMENDATION Grant permanent permission subject to receipt of KCC Biodiversity officer comments (closing date 17 August 2015)			
SUMMARY OF REASONS FOR RECOMMENDATION The application would provide a permanent unit of occupation for a gypsy family, within a sustainable location, and without giving rise to serious amenity concerns or harm to the character or amenity of the countryside.			
REASON FOR REFERRAL TO COMMITTEE Objection from Ward Member and local objections.			
WARD Hartlip, Newington & Upchurch	PARISH/TOWN Newington	COUNCIL	APPLICANT Mr M Love AGENT Patrick Durr
DECISION DUE DATE 08/07/15	PUBLICITY EXPIRY DATE 09/06/15	OFFICER SITE VISIT DATE 15.05.2015	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/87/1388	Construction of agricultural dwelling in association with use of land as smallholding.	Refused.	11.12.87
Refused as the construction of single, open-market dwellings is contrary to policies of rural restraint.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies to the south of Lower Halstow on a small single-track lane linking Breach Lane to the west with School Lane, Newington, to the east. The site lies on the northern side of the road, approximately 250m from Breach Lane and is accessed via an existing agricultural gate and track. The access track runs northwards for approximately 80m before opening out to a cleared area currently used for the storage of farm machinery, two shipping containers, and a number of small dilapidated structures.
- 1.02 The site itself is largely clear and covered in loose gravel / hard standing and there are some large bushes / small trees at the southwestern corner. Land levels generally slope upwards to the east and downwards to the west, and the site is predominantly surrounded by grazing pasture.

1.03 Mature planting along the lane and within surrounding fields, the change in land levels and the position of the site itself largely obscure views from public vantage points. There are clear views of the site from the north west from an existing field access to the south of Oast Cottages, approximately 300m from the site.

1.04 The closest dwelling is Breach Farm Bungalow to the south west, approximately 80m from the closest point of the proposed layout.

2.0 PROPOSAL

2.01 The application seeks permission for change of use of the land to a single gypsy pitch with associated development, including the stationing of one static caravan, one touring caravan, an amenity building, and shipping container.

2.02 All structures would be positioned adjacent to the western boundary of the site: the static caravan to the north, the amenity building to the south of that, then the touring caravan, and finally the shipping container would be placed adjacent to the existing planting.

2.03 The static and touring caravans would be of a standard design.

2.04 The amenity building will measure approximately 6.5m wide (7.5m including a small lean-to log store) x 4.9m deep x 4.2m high. It will be clad with dark-stained timber boarding and feature a pitched roof with dark grey cement tiles. Internally it will provide a kitchen / day room, bathroom and store room.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.1ha
No. of residential units	1

4.0 PLANNING CONSTRAINTS

4.01 None.

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 Panel on 12 December 2012. All policies cited below – other than H4 – 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.

- 5.04 As above: policy H4 is not considered to be NPPF-compliant, but will ultimately be superseded by a new Core Strategy policy to reinforce NPPF compliance and in particular, the Council will need to allocate sites via a Gypsy & Traveller Site Allocation development plan document and Gypsy & Traveller Assessment. The report to LDF Panel (as at 5.27 below) notes that *“in the interim, development proposals which do not have overwhelming material considerations to indicate refusal have been granted temporary planning permission, pending preparation of these documents.”*
- 5.05 National Policy
- 5.06 National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework and the Planning Policy for Traveller Sites (PPTS). 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 has been required, since 2013, to maintain a rolling five year supply of sites that are in suitable locations and available immediately.
- 5.07 The PPTS was a considerable change in national policy, prior to which national policy was set out in Circular 01/2006 where the original intention was for regionally set pitch targets to be met.
- 5.07 The Council, in my view, responded positively and quickly to that change. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2014 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).
- 5.09 From this the Council will also produce a Development Plan Document setting out deliverable sites to meet this need. However it is anticipated that this will take at least three years to become formal policy, as it relies upon successful adoption of the draft Local Plan, entitled *“Bearing Fruits,”* which is unlikely to be formally agreed until at least early 2017.
- 510 Local Policy
- i) *The Swale Borough Local Plan 2008*
- 5.11 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.
- 5.12 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.
- 5.13 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.”

5.14 However, policy H4 has largely been superseded by *Planning Policy for Traveller Sites*.

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

5.16 SBLP Policy T3 requires adequate parking to be provided.

ii) *Bearing Fruits 2031*

5.17 The Council’s Draft Core Strategy has now been replaced by the emerging draft Local Plan, entitled *Bearing Fruits 2031*, which is at draft publication stage and therefore carries some weight in the determination of applications.

5.18 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.”

- 5.19 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.
- 5.20 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.
- 5.21 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.

iii) *Corporate Policy*

- 5.22 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.
- 5.23 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 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 this stage a site allocations approach is not the right way forward for Swale.
- 5.24 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 site is mentioned in the survey.
- 5.25 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.
- 5.26 Potentially acceptable sites have 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 due to flood risk or national or international nature conservation grounds, serious landscape or heritage impact or site suitability over a range of issues.
- 5.27 The 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.

5.28 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.”*

5.29 The Council had thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria. This has now been agreed as being a material consideration in the determination of planning applications. The site was scored when under consideration in 2010 and received a total of 36 points – a very high score.

5.30 The Corporate Policy has in my view been largely successful in guiding the provision of gypsy and traveller sites, however the 2013 GTAA identified a Borough-wide shortfall of 40 pitches. The current application site was not one considered through the formal site allocations process and therefore counts as a windfall provision towards that shortfall.

6.0 LOCAL REPRESENTATIONS

6.01 Cllr. Wright, one of the Ward Members for the area, has objected to the application:

I wish to object to this application for the following reasons:

“The number of gypsy sites now within this area is and has changed the rural aspect and character of the area, this site will change the last remaining road from Upchurch to Newington without a pitch. This goes against Swales Environmental protection policies that protect the countryside.

Local facilities and character are not being enhanced or renewed by all these small but significant applications that urbanise this area and by stealth eat into the rural character and nature without giving anything back to the community or environment. There cumulative impact is and has been significant on the countryside, wildlife, community facilities and services making this type of development unsustainable.

It seems there is no over riding need for this person to move onto this site only a wish to be more conveniently situated near to his horses.

The access to the site is very poor.

The site is very visible from the south and west.

The site shown is very large and could accommodate even more pitches, therefore this is not a good efficient use of the site.

It is not a sustainable site.

It is not in the local plan as an allocated site, the applicant has shown no attempt to acquire an allocated site."

6.02 5 letters of objection have been submitted by local residents, raising the following concerns:

- Large number of sites within vicinity is changing character of the area;
- Particular proliferation of gypsy and traveller sites within Upchurch and Lower Halstow and impact upon settled community;
- Impact of this scheme itself on appearance of the area;
- Proposal is contrary to environmental policies;
- The design of the proposed structures would not sit comfortably with nearby properties;
- Negative impact on nearby listed buildings [NB: closest listed building approximately 290m to the south west, with intervening buildings];
- Potential for additional pitches to be created on the site;
- The amenity building constitutes a house;
- Difficult to screen views due to hillside location;
- The applicant has not demonstrated an attempt to acquire an allocated site;
- Damage to roads, verges, and sometimes utilities from transporting caravans;
- Visual impact of fences and other structures;
- Will add to traffic and pollution;
- The junction with Breach Lane has limited visibility;
- The lane is narrow and there are frequent accidents;
- A site notice was not posted [NB: the case officer posted a notice on the fence adjacent to the site entrance on 15.05.15] and the Council has deliberately avoided informing neighbours;
- Site is remote and unsustainable;
- The application should not be considered until the Gypsy and Traveller Site Allocations document is formally adopted by the Council;
- The site is not 'brownfield' land;
- Loss of privacy for existing dwellings;
- The ecological survey does not examine birds that regularly fly in the area; and
- Badgers have been seen crossing the site at night.

7.0 CONSULTATIONS

7.01 I have not received a response from either Newington or Upchurch Parish Councils.

7.02 Kent Highway Services have no comments, noting that the scale of the development does not fall within their remit.

7.03 The Council's Environmental Health Manager has no comments.

7.04 Comments from the KCC Biodiversity officer are awaited, likely response date 17 August.

7.05 No other representations received.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is supported by existing and proposed plans, an ecological assessment, and a family history of the applicant (Mr Love).

9.0 APPRAISAL

Principle of Development

- 9.01 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.”

I have no reason to doubt the applicant’s traveller heritage (the Love family are known to officers as local travellers) nor have I been presented with any evidence to the contrary.

- 9.02 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.
- 9.03 The site is not located in an area at risk of flooding, nor is it located in a designated area relating to landscape or biodiversity. There are no TPOs nearby and, whilst Connetts Farm to the north contains a number of listed buildings, these are so far removed (a minimum of 300m, with intervening buildings) as to be irrelevant to this proposal.
- 9.04 The site is not listed within the Gypsy and Traveller Corporate Policy or the accompanying Site Assessment Report, and therefore must be considered a windfall site in terms of contribution to the Council’s pitch provision requirements. Furthermore the site scores very highly on the Council’s Site Allocation Assessment Methodology (attached as appendix), with all but one of the indicators falling within the “fully meets criteria” range (I have been unable to determine if utilities are in place on the site, but this is not a reason to discount / refuse in principle). The site is therefore appropriate, at least in terms of the Council’s adopted assessment tools, for gypsy / traveller accommodation.
- 9.05 I am therefore confident that the principle of the proposed development is acceptable under national and local policy.

Visual Impact

- 9.06 The site sits on higher ground, that generally rises up to the east and down to the west (to Breach Lane). There are views of the site from the access track to the front, and also from Breach Lane (particularly from the field access to the south of Oast Cottages and, from the rear of those dwellings. However the views are all at a considerable distance – approximately 80m from the lane and 300m from Oast Cottages, as noted above, and I do not consider that the proposed development would be prominent or intrusive when seen from such distances. Furthermore I consider that a suitable landscaping scheme (secured by condition below) along the site boundaries would further help to screen and soften views of the site from surrounding vantage points.

- 9.07 I have walked the surrounding public footpaths and views are very much infrequent – often obscured entirely by local topography – and at a considerable distance as to be insignificant, in my opinion.
- 9.08 The proposed static caravan and amenity block are of typical scale and design, and I have no serious concerns in this regard. I was initially concerned about the proposed storage container, as these generally appear out of place within the countryside but, having visited the site and surrounding areas I believe that it can be adequately mitigated / screened with appropriate landscaping and thus do not object to it.
- 9.09 I am therefore confident that the development has no serious impact upon the character or appearance of the area or the wider countryside, and that there is no reasonable justification for refusal of permission on such grounds.

Residential Amenity

- 9.10 The site is positioned well away from neighbouring dwellings: a minimum of 80m to Breach Farm Bungalow to the south west and approximately 300m to Oast Cottages to the west across fields. I therefore consider that residential use of the site would have little impact upon existing surrounding residents.
- 9.11 I note local concerns relating to a local proliferation of gypsy and traveller sites, and the suggestion that they are coming to dominate the local settled community. However in terms of nearby existing gypsy sites, I note that The Paddocks (Holywell Lane) is approximately 830m (as the crow flies) from the current site; the Oak Lane site roughly 1.5km; and Ridgedale Stables (Halstow Lane) roughly 1.7km. Given this geographic spread I do not agree that the sites are dominating the settled communities of Upchurch or Lower Halstow

Highways

- 9.12 The development makes use of an existing access, and adequate parking and turning is provided within the site. I therefore have no serious concerns in regards to highway safety or amenity. I note local concern regarding highway safety within the area in general but that is not a material planning consideration in the determination of this application.

Landscaping

- 9.13 As noted above the site has adequate space to implement a robust landscaping scheme, and I have conditioned this accordingly. Subject to such landscaping I believe that the development would not be seriously prominent, intrusive or harmful to the character or appearance of the countryside.

Other Matters

- 9.14 The site, whilst situated on a narrow, rural lane, lies approximately 1km from Newington via the public footpath to the east. Further services and facilities are available within Lower Halstow (2.1km by road), Upchurch (2.7km by road, 2.3km by public footpath) and Rainham (3km). I therefore consider the site to be within suitable distance of the necessary services, facilities and public transport links, and believe that it should be considered a sustainable location for the purposes of providing gypsy and traveller accommodation.

- 9.15 There is no requirement for the applicant to demonstrate that he has attempted to acquire an allocated site.

10.0 CONCLUSION

- 10.01 This proposal would result in the provision of a single residential gypsy site within a good location and without giving rise to serious amenity issues or harm to the character or appearance of the countryside. The development is in accordance with local and national policy and would contribute towards the Council's pitch provision shortfall.

- 10.02 I therefore recommend that planning permission should be granted subject to receipt of comments from the KCC Biodiversity officer (closing date 17 August 2015).

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (3) No more than one static caravan, one touring caravan, one amenity building and one shipping container shall be stationed on the site at any one time, as shown on drawing 295/14/04 A, received 23 March 2015.

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

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

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

- (5) 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 and preserving rural amenity.

- (6) Within 6 months from the date of this permission the area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained in accordance with details to be agreed in writing by the Local Planning Authority, and shall thereafter be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reasons: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (7) The use hereby permitted shall cease and any caravans, utility blocks, sheds, other structures, hard standings, fences, materials and equipment on the site and connected with the use, together with all ancillary vehicles and equipment, shall be removed within 28 days of any one of the following requirements not being met:
- (i) within 3 months of the date of this decision there shall have been submitted for the approval of the Local Planning Authority a landscaping scheme comprising full details of both hard and soft landscape works. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage and enhance wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. In addition, details of a surface water drainage scheme and details of the external finishing materials to the utility buildings shall be submitted shall be submitted within 3 months of the date of this decision.
 - (ii) within 11 months of the date of this decision the landscaping and drainage schemes and schedule of finishing materials shall have been approved by the Local Planning Authority or, if the Local Planning Authority fail to approve such a scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted as validly made, by the Secretary of State.
 - (iii) if an appeal is made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
 - (iv) all works comprised in the landscaping scheme as approved shall have been implemented, and completed within the timetable set out in the approved scheme and the drainage scheme shall have been implemented.

Reasons: In the interests of the visual amenities of the area, highway safety and amenity, and encouraging biodiversity.

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 acceptable as submitted and no further assistance was required.

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.