

REPORT SUMMARY

REFERENCE NO - 14/506690/FULL		
APPLICATION PROPOSAL Change of use of land for stationing of 2 caravans on plots for residential occupation and 2 tourers with associated development (hard standing, fencing, cess pit, 2 timber sheds) - retrospective application for use as a gypsy/traveler site as shown on Block Plan (Plans Ahead); received on 12.11.2015 and Site Location Plan (Plans Ahead); received 23.12.2015		
ADDRESS Ashtree Place, Hampstead Lane, Nettlestead, Kent, ME18 5HN		
RECOMMENDATION - Permission		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development, subject to the conditions stated, including a temporary consent, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.		
REASON FOR REFERRAL TO COMMITTEE Nettlestead Parish Council wish to see the application refused.		
WARD Marden And Yalding Ward	PARISH/TOWN COUNCIL Nettlestead	APPLICANT Mr A Webster AGENT Heine Planning Consultancy
DECISION DUE DATE 23/02/15	PUBLICITY EXPIRY DATE 23/02/15	OFFICER SITE VISIT DATE 19/01/15

History

10/1595 - Variation of conditions 1 & 3 of Planning Permission MA/05/0941 (Change of use from agricultural to residential land, as gypsy site for stationing of 3 No static caravans & 1 no touring caravan & associated hard standings) to include additional occupants and to allow use of the site on a permanent basis – Permitted (temporary)

05/0941 - Change of use from agricultural to residential land, as gypsy site for stationing of 3 No static caravans & 1 no touring caravan & associated hard standings, and the erection of a single storey amenity shed as shown on committee photos – Permitted (temporary)

04/0288 - Change of use from agricultural to residential land adjacent to Catchment Gardens, for stationing of three static caravans and one touring caravan and associated hard standing - Refused

02/0773 - Change of use from agricultural to stationing of 2 no. residential caravans/mobile homes and the erection of a brick built utility and shower/wc building for use between 15th March and 30th September each year – Refused and dismissed on appeal

00/1842 - Change of Use from agricultural to residential with the stationing of 2No. caravans and 1No. utility room – Refused and dismissed on appeal

MAIN REPORT

1.0 Site description

- 1.1 The application site is located in the open countryside off the south side of Hampstead Lane. The site is relatively flat land located within the Metropolitan Green Belt. The site is located within Flood Zone 2. The site is approx. 0.9 hectares in area and is located approx. 1.5km to the west of Yalding village and approx. 200m west of the Paddock Wood – Maidstone railway line.
- 1.2 Vehicle access is taken from Hampstead Lane between Catchment Cottage (to the east) and another traveller site to the west (Three Acres). The vehicle access is formed of crushed tarmac with a maintained grass verge with tree and hedgerow planting on the edge of the track. The vehicle access leads south into the site, passing a small grassed paddock to the east, whilst to the west is a separate access track serving fields to the south. There is a further traveller site known as Four Sons located to the west of Three Acres.
- 1.3 At the time of my site visit the site accommodated two static caravans side by side at the northern end of the site and one tourer located toward the western boundary of the site. These units are served by hardstanding and access tracks off the vehicle access. The remaining area of the site remains as an open grassed area. An area of woodland is located beyond the southern boundary. The site is well landscaped with tree and hedgerow planting.

2.0 Proposal

- 2.1 Retrospective planning permission is sought for the change of use of land for stationing of 2 caravans on plots for residential occupation and 2 tourers with associated development (hard standing, fencing, cess pit, 2 timber sheds) - for use as a gypsy/traveller.
- 2.2 The applicants and current occupants of the site have been living on the site since circ. 2005. Planning permission 05/0941 was a temporary permission for a gypsy caravan site for 3 static caravans and one tourer. 05/0941 was a personal permission restricting occupation to Mrs Sarah Webster, Mr Alfie Webster and Mrs Lorraine Storey, their partners and their dependent children. 05/0941 expired in September 2010. Following the expiry of the 2005 permission the applicants were granted a further temporary consent under application 10/1595 for the same number of caravans with a variation in the personal permission following the death of Mrs Sarah Webster, to allow Alice Webster and her children to live on the site in place of Mrs Sarah Webster. Alice is the sister of Alfie Webster and Lorraine Storey. 10/1595 was approved in April 2011 for temporary 2 year period.
- 2.3 This application seeks a further temporary permission for Alfie Webster and Lorraine Storey to remain on site along with their partners and their dependent children.
- 2.4 Since the application was originally submitted the description has been amended from 3 static and 3 tourers, to 2 static caravans and 2 tourers. The third static caravan proposed for Alice Webster no longer forms part of the planning application. Alice Webster currently lives in housing in Cranbrook in a house.

3.0 Policies and other considerations

- Development Plan 2000: ENV6, ENV28, ENV30, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, DM26
- Planning Policy for Traveller Sites (PPTS)

4.0 Local representations

4.1 No neighbour objections have been received.

5.0 Consultation responses

5.1 **Nettlelead Parish Council:** Wish to see the application refused for the following reasons:

'The Parish Council would like to see this application refused as it is in the Metropolitan Green Belt and the area in question is in the Flood Zone'.

5.2 **Environmental Health Team:** Raise no objection subject to conditions.

5.3 **KCC Highways:** Raise no objection.

5.4 **Environment Agency:** Have no objection to the proposed temporary use of this site so long as it is time limited.

6.0 Principle of development

6.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the MBWLP relates to development in the countryside stating that;

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers."

6.2 Policy ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing policy H36 of the MBWLP but this is not a 'saved' policy. Policy ENV30 (Green Belt) is designed to control the spread of inappropriate development.

6.3 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

6.4 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and this information does remain the current need figure.

The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2012	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

6.5 These figures were agreed by Cabinet on the 13th March 2013 as the pitch target and were included in the consultation version of the Local Plan. The current GTAA provides the best evidence of needs available at this point of time and the decision needs to be based on evidence at the time of the decision.

6.6 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Draft Policy DM26 of the Regulation 18 version of the Draft Local Plan accepts that this type of accommodation can be provided in the countryside provided that certain criterion is met. The Draft Plan also states that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2017.

6.7 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

Need for Gypsy sites

6.8 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

6.9 As stated above, the projection accommodation requirement is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2012	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

6.10 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 71 Permanent non-personal permissions
- 10 Permanent personal permissions
- 3 Temporary non-personal permissions
- 31 Temporary personal permissions

6.11 Therefore a net total of 81 permanent pitches have been granted since 1st October 2011. As such a shortfall of 25 pitches remains outstanding.

- 6.12 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

Gypsy status

- 6.13 Since the application was submitted, the Government has issued revisions on the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, and the planning definition of 'gypsies & travellers' have been amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"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."

- 6.14 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.15 Mr Alfie Webster and Mrs Lorraine Storey have been granted personal traveller permissions twice previously on this site and their gypsy status has been accepted during the determination of application 05/0941 and 10/1595. However, it is necessary to assess whether Mr Alfie Webster and Mrs Lorraine Storey fall within the current definition of a gypsy / traveller.
- 6.16 A letter from the agent states that Mrs Lorraine Storey and Mr Alfie Webster led a nomadic life before settling on this site in accordance with the previous definition in Circular 2006, which has not been abandoned. Both still travel for work. Mrs Storey does seasonal farm work. This year she spent 10 weeks on a Hop farm in Goudhurst where she stopped in her touring caravan with other family members. She has also done cherry picking in Kent orchards. Mr Webster is a horse dealer and travels to all the main horse fairs. Mr Webster comes and goes from site all year round visiting the main fairs and horse auctions round the country. Both applicants plan to continue their nomadic habit. With the evidence before me, I am of the view that Mrs Storey and Mr Webster both lead a nomadic habit of life and accept that they fall within the gypsy status definition.
- 6.17 Also key in determination of this application are the changes in government guidance in relation to traveller sites in the Green Belt. The previous application (10/1595) was assessed against Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. In relation to Green Belt sites this document states that 'New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: Green Belts (PPG2). Alternatives should be explored before Green Belt locations are considered. Pressure for development of sites on Green Belt land can usually

be avoided if the local planning authority allocates sufficient sites elsewhere in its area, in its LDF, to meet identified need.'

- 6.18 The introduction of national planning policy planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS) 2012 and followed through in the 2015 amendment afford stricter controls on traveller sites in the Green Belt. Paragraph 16 states 'Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.
- 6.19 Paragraph 27 of the PTS also states '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 planning permission. The exception is where the proposal is on land designated as Green Belt' inter alia.
- 6.20 The site was accepted for temporary permission in 2005 when it was considered that the Gypsy status, medical (Mrs Sarah Webster) and educational needs demonstrated by the applicant and her family represented special circumstances to allow the development as a departure from the Development Plan. Temporary permission was granted for five years. In 2010 the site was again accepted for temporary permission on grounds of the Gypsy status and for educational reasons due to the children living on the site attending local schools. Health considerations / medical issues were given limited weight during the assessment of 10/1595 as Mrs Sarah Webster had died. During the determination of the previous planning permissions the Council was unable to offer the applicant an alternative site.
- 6.21 The personal circumstances of the applicant are again put forward as justification with one of Lorraine Storey's three children in full time education at school locally in Paddock Wood. Lorraine also cares for her elderly grandmother who lives on a site nearby in East Peckham. Mr Webster and his wife Sarah have five children, four of whom are of school age.
- 6.22 It is noted that government guidance on traveller sites in the Green Belt has been tighten since the last temporary permission was granted on this site in 2010, in that personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, the best interests of the child are still afforded weight in the determination of traveller sites in the Green Belt.
- 6.23 The two applicants and their families have been living on this site for more than 10 years and their children have either attended or are attending local schools. Given the fact the Council is unable to offer any alternative accommodation and, taking into consideration the length of time the applicants have resided at this site; the needs of the children living at the site; the fact that temporary permission has been granted previously, leads me to give the needs of the applicant weight in the determination of this application. It is also noted that the number of static and tourer caravans on the site would reduce from three to two compared with the previous permissions which would reduce the visual impact of the development on the open countryside and Green Belt.

6.24 Visual impact

6.25 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined; however, this is addressed in the NPPF and saved Local Plan policy ENV28 and ENV30.

6.26 A key issue to consider is whether the development has an adverse impact on the character of the area and on the openness of the Green Belt.

6.27 Hampsted Land is a rural lane set in the open countryside. The site is within the Green Belt. Clearly the site is sensitive given that development of this nature should not normally be accepted

6.28 The visual impact of three static caravans and three tourers was previously found to be acceptable during the assessment of the 2005 and 2010 applications. I have no reason to differ from this conclusion, especially considering this application proposes a reduction in the number of caravans previously approved and, the landscaping surrounding the site will have become more established over time. In my view this application for two static caravans and two tourers would have less of a visual impact on the openness of the Green Belt and countryside than the previously approved schemes.

6.29 The application site is reasonably unobtrusive and has a limited impact on the openness of the Green Belt, largely due to the static caravans being sited away from the road frontage of Hampstead Lane. The static caravans are discreetly located along the northern boundary of the site some 70m distance from Hampstead Lane and are largely screened by neighbouring development and landscaping / boundary treatment. The static caravans are therefore not readily visible from the road and only the roof of the larger unit is visible from the road. PROW KM186 is located to the south of the site, however, views of the site are distant and the caravans are seen against the backdrop of other neighbouring developments.

6.30 There are no long or medium distance views of the site where the site would appear dominant, due to the topography of the surrounding area, screening from neighbouring developments and established boundary screening. The views of the site from the PROW were not previously considered sufficient to warrant refusal on grounds of visual impact and countryside harm. As such the development would not cause significant visual harm to the countryside or the openness of the Green Belt.

6.31 Sustainability

6.32 Gypsy traveller sites will almost inevitably be located in countryside locations, and the site is located some 1.5km from Yalding on a main road. In my view, I do not consider the site to be so far removed from basic services and public transport opportunities as to justify grounds to refuse this application in terms of being unsustainable.

6.33 Residential amenity

6.34 There are other gypsy sites in close proximity to the site and residential houses located to the north of the site. The static caravans are located a sufficient distance away from the neighbouring houses / caravans and I am satisfied that the proposed development would not have a significant detrimental impact on the residential

amenity of any neighbouring occupant, in terms of general noise and disturbance, and privacy.

6.35 Highway safety implications

6.36 The site benefits from an existing vehicle access onto Hampstead Lane and I am satisfied with the visibility splays. The proposal would result in a reduction in the number of caravans previously granted permission on this site which would likely result in a reduction in the vehicle movements, and I consider the local highway network to be capable of accommodating the relatively low vehicle movements to and from the site. There is established parking and turning space within the site; the access road is suitably surfaced; and the gates are set back from the highway. KCC Highways have raised no objection.

6.37 Landscape and biodiversity implications

6.38 The site has been established as a traveller site for some 10 years and the applicants have planted boundary hedgerows and trees within the site, with the remaining areas mainly consisting of maintained lawns. As such I do not consider that there are any landscape or ecology grounds for objection.

6.39 Other considerations

6.40 Given the location of the proposal site, I am satisfied that there are no objections to be raised in terms of flood risk and drainage. The Environment Agency raises no objections to a temporary permission and recommended informatives which have been added.

6.41 There are other gypsy and traveller sites on Hampstead Lane but I do not consider the granting of a permission here would lead to an unacceptable over-concentration of sites, or result in unacceptable visual harm; and given the sporadic residential development within the immediate area and relatively sustainable location, it would not dominate the nearest settled community or place undue pressure on the local infrastructure.

6.42 I am satisfied that the 2 mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended), and an appropriate condition will control this.

7.0 Conclusion

7.1 In view of the fact that the applicants have been living on this site since circa 2005 under two previous temporary permissions and their children have either attended or are attending local schools, coupled by the fact that the Council is unable to offer any alternative accommodation, leads me to give the needs of the applicant and their children weight in the determination of this application.

7.2 It is also noted that the number of static and tourer caravans on the site would reduce from three to two compared with the previous permissions, which would reduce the visual impact of the development on the open countryside and Green Belt. I therefore consider, on balance, that a further temporary permission for a three year period would be appropriate in this instance.

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS to include

- (1) The use hereby permitted shall be carried on only by Mr Alfie Webster and Mrs Lorraine Storey, their partners and their dependant children only.

Reason: Because of the special circumstances demonstrated and to restrict occupation of the site in accordance with Policies ENV28 and ENV30 of the Maidstone Borough-Wide Local Plan 2000.

- (2) Within 3 years from the date of this permission, or when the premises cease to be occupied by the persons identified in condition 1 above (whichever is sooner), the use hereby permitted shall cease and the caravans, and all other materials and equipment brought onto the premises in connection with the use shall be removed. The land shall then be restored to its former condition on or before a date not later than three months following the vacation of the site, in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

Reason: Permission has been granted on a temporary basis in recognition of the overriding need to provide sites for gypsies in the short term and to reflect the personal circumstances demonstrated in the application. A temporary condition is necessary to protect the character and appearance of the countryside and openness of the Green Belt in accordance with policies ENV28 and ENV30 of the Maidstone Borough-Wide Local Plan 2000.

- (3) No more than 2 static caravans and 2 tourers, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (4) No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (5) The development hereby permitted shall be carried out in accordance with the following drawings:

Block Plan (Plans Ahead); received on 12.11.2015 and Site Location Plan (Plans Ahead); received 23.12.2015

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

INFORMATIVES

Case Officer: Andrew Jolly

Planning Committee Report

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.