

REPORT SUMMARY

REFERENCE NO - 16/505005/FULL		
APPLICATION PROPOSAL Permanent stationing of two additional mobile homes for the applicant's dependents.		
ADDRESS Little Boarden Boarden Lane Staplehurst Kent TN12 0EB		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development is in accordance with the adopted and submitted version of the Local Plan and is not considered to result in significant planning harm.		
REASON FOR REFERRAL TO COMMITTEE - Councillor Prendergast has called the application to Planning Committee.		
WARD Headcorn	PARISH COUNCIL Headcorn	APPLICANT Mr Tony Eastwood
DECISION DUE DATE 05/08/16	PUBLICITY EXPIRY DATE 011/07/16	OFFICER SITE VISIT DATE 20/06/16
RELEVANT PLANNING HISTORY:		

Planning history on this site does go back to the 1970's and the most relevant planning history is as follows:

- MA/12/1908 – Variation of condition 1 and removal of condition 3 of MA/07/2248 to allow permanent stationing of 2 mobile homes for applicant's sons and their resident dependants - Approved
- MA/07/2248 – Stationing of 2 additional mobile homes for residence of the applicant's sons with new dependants – Refused (allowed on appeal)
- MA/05/1681 - Retrospective application for change of use of land to residential and stationing of 1 mobile home and 1 touring caravan for gypsy family - Approved

MAIN REPORT

1.0 Site description

1.01 'Little Boarden' is located on the south-eastern side of Boarden Lane, with its existing vehicle access close to the right-angled bend in the road, some 250m to the south-east of the junction with Hawkenbury Road. The access is some 60m long leading up to the site and at the time of my site visit there were 2 mobile homes on site with an area ready for a third mobile home. The site benefits from well-established boundary planting; and the applicant's land extends beyond the site where horses are kept. For the purposes of the adopted Development Plan, the proposal site is within the countryside.

2.0 Background information

2.01 Permanent personal permission was granted for Mr Alfred Eastwood and his dependants under MA/05/1681 and was restricted to 1 mobile home and 1 touring caravan.

2.02 Permission was then sought in late 2007 for 2 additional mobile homes for Mr Eastwood's 2 sons (Caleb and David Eastwood) and their dependents under MA/07/2248. This was refused by the local planning authority but subsequently allowed on appeal in 2008 for a temporary period of 4 years (personal permission). A summary of the Inspector's decision is as follows:

The Inspector considered that the 2 additional mobile homes would cause significant harm to the countryside because they would be more prominent at the north-west end of the site and that existing planting, even if supplemented, would be unlikely to mitigate the harmful visual impact,

particularly in winter. It was also considered that the site was poorly located in terms of services and facilities and would be likely to encourage additional private vehicular usage contrary to Circular 01/2006 and the Structure Plan at the time.

- 2.03 However, the Inspector considered the shortfall of sites for gypsies in Maidstone and the lack of alternative accommodation must be accorded significant weight at the time, and allowed a temporary permission.
- 2.04 Further to this, a temporary 3 year personal permission was granted under MA/12/1908 for the addition of 2 mobile homes, again for Mr Eastwood's 2 sons and their dependents. In summary, the Council still considered the addition of 2 mobile homes to be visually harmful and the Council was still unable to direct Mr Eastwood's sons to an alternative site. This temporary permission expired in early December 2015.

3.0 Proposal

- 3.01 The development is for the permanent stationing of 2 mobile homes for Mr Eastwood's 2 sons (Caleb and David) and their dependents. At the time of my site visit there were 2 mobile homes on site, both located along the north-eastern boundary of the site; and there is an area ready for the third mobile home which is close to the south-western boundary of the site. The additional caravans are/will be set back some 60m from Boarden Lane. Please note that the eastern-most mobile home is lawful (MA/05/1681).

4.0 Policy and other considerations

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan (submission version): SP17, GT1, GT1(5), DM7, DM16
- DCLG - Planning Policy for Traveller Sites (August 2015)

5.0 Consultations

- 5.01 **Councillor Prendergast:** Has requested this application be reported to Planning Committee;

"There is a considerable amount of concern amongst local residents and I believe it would be in the public interest to do so. I would be grateful if you would kindly confirm that this would be in order."

- 5.02 **Headcorn Parish Council:** Have made no representations.

- 5.03 **Environmental Health:** Raises no objection.

- 5.04 **Neighbour representations:** 11 representations have been received raising concerns over the proposal being contrary to the previous Planning Inspector's decision; it would cause harm to character and appearance of countryside; it is not sustainable development; there are discrepancies within the Council's 2014 Sustainability Appraisal (Technical Appendix C: Gypsy and Travellers Site Options) for Site Ref GT3-13, Little Boarden; it is intentional development; and there has been a change of definition of Gypsies and Travellers.

6.0 Principle of development

- 6.01 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.”

- 6.02 Policy ENV28 then outlines the types of development that can be permitted and this does not include gypsy and traveller development.
- 6.03 However, 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.
- 6.04 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 development restraint policies.
- 6.05 In addition, the submitted version of the Development plan went to the Secretary of State for examination in May 2016 and examination will follow in October/November this year. This Plan and its policies are considered to hold significant weight; and policy SP17 of this Plan seeks to restrict development in the countryside, whilst policy DM16 accepts this type of accommodation can be provided in the countryside provided certain criteria are met. Policy GT1(5) of the submitted version of the Local Plan also allows for 2 additional permanent pitches on this site, which will be discussed further on in the report. This emerging policy states;

In accordance with policy GT1, planning permission for 2 permanent pitches at Little Boarden, Boarden Lane, Headcorn, as shown on the policies map, will be granted if the following criteria are met.

Design and layout

1. The total capacity of the site does not exceed 3 Gypsy and Traveller pitches.
2. A landscaping scheme for the site is approved which provides for:
 - i. The retention and future maintenance of the existing landscaping along the frontage to Boarden lane as an effective screen to the development; and
 - ii. The retention and maintenance of the existing landscaping along the south western boundary and its extension with native planting along the whole of the boundary to form an effective screen to the development.

Need for Gypsy Sites

- 6.06 Although the emerging local plan is well advanced, there are not yet any adopted development plan policies relating to the provision of gypsy sites. Members are reminded that Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

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

6.07 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the emerging Local Plan, and it is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. 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.

6.08 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and submitted to the Secretary of State on 20th May 2016.

Supply of Gypsy sites

6.09 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

6.10 Policy GT1(5) of the submitted version of the Local Plan allows for 2 additional permanent pitches on this site provided the total capacity of the site does not exceed 3 pitches and that there is an appropriate landscape scheme. This Plan is considered to hold significant weight.

6.11 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

- 81 Permanent (non-personal)
- 16 Permanent (personal)
- 3 Temporary (non-personal)
- 33 Temporary (personal)

6.12 Therefore a net total of 97 permanent pitches have been granted since 1st October 2011. A further 90 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

6.13 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The submission Draft Local Plan does allocate specific sites, this site being one of them, and these are sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan. The Local Plan's adoption is currently timetabled for the latter half of 2017.

6.14 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. With the submission of the Local Plan, the council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016. In these circumstances, the PPTS direction to positively consider the granting of a temporary consent does not apply.

Gypsy Status

- 6.15 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."

- 6.16 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 in terms of ceasing travel temporarily, 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.
- 6.17 Under previous applications, it has been accepted by the Planning Inspector and the local planning authority that Mr Eastwood's 2 sons fell within the definition of 'gypsies & travellers', but this has to be clarified once again given the recent revision to the definition. The applicant has confirmed that Caleb and David work across the country with horses attending gypsy fairs to trade, travelling with their families from place to place. It is therefore reasonable to say that Caleb and David have not ceased to travel permanently or temporarily; and that they will continue to travel for work for the purposes of making a living. With the evidence before me I am therefore of the view that they do lead a nomadic habit of life and accept that they fall within the gypsy status definition for the purposes of planning.

Sustainability

- 6.18 Other decisions taken by the local planning authority and the Planning Inspectorate have not considered rural gypsy sites in similar locations to be unsustainable and this is not considered grounds alone to refuse this application. However, it is acknowledged the Inspector under MA/07/2248 felt the site was unsustainable, so this is a factor that weighs against the proposal.

7.0 Visual Impact

- 7.01 Guidance in the PPTS states that local planning authorities should very 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 has been outlined however this is addressed in the NPPF and saved adopted Local Plan policy ENV28.
- 7.02 The Planning Inspector, under MA/07/2248, stated that *"...the development would cause significant harm to this area of countryside and its unsatisfactory impact could not be mitigated to an acceptable extent"*. However, this view was taken in October 2008, which is nearly 8 years ago when there was limited boundary landscaping. Since this time the site has become well screened by mature planting along the site's frontage with Boarden Lane and around the immediate boundaries of where the mobile homes will be sited; and at the time of my site visit only glimpses of the site were possible through the access and along Boarden Lane. The existing

landscaping will be retained and reinforced through additional native planting along the south-western boundary (in accordance with policy GT1(5) of the submitted version of the Local Plan), which will be secured by way of condition. It is therefore my view that the proposal will no longer cause harm to the character and appearance of the countryside hereabouts, and this measured with the site's allocation in the submitted version of the Local Plan leads me to consider an unrestricted permanent use of the site is acceptable.

8.0 Residential Amenity

- 8.01 A residential use is not generally a noise generating use; and the nearest residential property would be more than 50m away from the additional pitches. Given this, I am satisfied that the addition of 2 more mobile homes would not have a significant detrimental impact on the residential amenity of any neighbouring residence, in terms of general noise and disturbance and privacy.

9.0 Highway safety implications

- 9.01 The 2 additional pitches make use of the existing access; there is sufficient parking and turning facilities within the site; and the additional pitches will not lead to a significant increase in traffic generation or an unacceptable intensification of use of the access. I am therefore satisfied that this proposal would not result in a highway safety issue.

10.0 Other considerations

- 10.01 The proposal site is not within Flood Zone 1 and it is an existing gypsy site that is largely laid hardstanding. I therefore raise no objections in terms of flood risk and I consider it unreasonable and unnecessary to request any further ecological information. Environmental health has raised no objections in terms of land contamination; air quality; noise; amenity; sewage disposal (which is to be dealt with by cesspit). The issues raised the local residents have been addressed in the main body of this report. It is also thought that the proposal would not result in an over concentration of gypsies and travellers in the area.
- 10.02 In accordance with National planning policy, the issue of intentional unauthorised development is a material consideration in the determination of this retrospective application. In this instance it is not considered to be reason alone to refuse this application as any harm caused can be appropriately mitigated against through the use of the recommended conditions.
- 10.03 The issues raised by the local residents have been addressed in the main body of this report. However, I would add that the Council's 2014 Sustainability Appraisal has been superseded by the Sustainability Appraisal of the Maidstone Local Plan (February 2016).

11.0 Conclusion

- 11.01 For the reasons set out, the development is not considered to be adversely visually harmful to the countryside; there are no residential amenity or highway safety issues; and significant weight is given to site allocation as set out in the submitted version of the Local Plan with which this application complies. So whilst the site is removed from basic services/amenities and future occupants will be reliant on the car, in weighing up the material planning issues/policies and the on-going need to provide accommodation for gypsies and travellers, I take the view that in this instance an unrestricted permanent permission should be granted for the 2 additional pitches.

RECOMMENDATION –GRANT Subject to the following conditions:

- (1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 2012;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

- (2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any time excluding those permitted under application MA/05/1681;

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

- (3) When the land ceases to be occupied the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.

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

- (4) Within three months of the date of the permission hereby granted a scheme of landscaping, using indigenous species which shall be in accordance with BS 5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management shall be submitted to and approved by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of all new planting within the site;
- ii) Retention of existing boundary planting
- iii) Retention of existing landscaping along frontage of Boarden Lane;
- v) New native hedge planting along length of south-western boundary;

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

- (5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following this approval; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

- (6) No lighting whether permanent or temporary shall be installed on the site without the prior written consent of the Local Planning Authority;

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

- (7) No commercial activities shall take place on the land, including the storage of materials, without the prior written consent of the Local Planning Authority;

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

- (8) The development hereby permitted shall be carried out in accordance with the proposed layout plan received 10/06/16;

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

INFORMATIVES

- (1) The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.

Case Officer: Kathryn Altieri

- 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.