

<b>REFERENCE NO:</b> 20/502238/FULL		
<b>APPLICATION:</b> Siting of 1 additional mobile home and erection of 4-bay garage, stable block (for keeping of horses) and day room.		
<b>ADDRESS:</b> Neverend Lodge Pye Corner Ulcombe Maidstone Kent ME17 1EF		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> <p>In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policy SP17 allows for development provided it does not result in harm to the character and appearance of the area.</p> <p>In this instance, it has been established that the intended occupant of the proposed additional mobile home does not meet the Government's planning definition of a Gypsy as set out in the PPTS, and as such Local Plan policy DM15 is not relevant. However, the site is a lawful unrestricted Gypsy site for one residential mobile home that can be sited anywhere within the authorised site; and it is considered that the proposed development as a whole would not have an adverse impact upon the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value. It is also a material consideration that Local Plan policy GT1(16) accepts the landscape impact of one additional mobile home on the site (albeit for those who meet the Government's planning definition).</p> <p>Further to this, it is clear that the personal circumstances of the future occupant, who is a close relative of the applicant, is a consideration here; and it is important that the applicants are close-by and able to provide 24hr care. Clearly there is connection between Miss Courtney and the applicants. In this instance, it is therefore considered that significant weight is given to the accommodation needs and personal circumstances of the applicant's family, as set out, and planning permission should be granted.</p> <p>Regard has been had to the Human Rights Act 1998 and rights under Articles 3 and 8 and the Public Sector Equality Duty under the Equality Act 2010 in respect of private and family, and it is found that the proposal is acceptable, and as such there would be no violation of the human rights on this occasion. In permitting the proposal, this would allow for the stationing of an additional mobile home at an existing Gypsy site; and weighing this against public interest the site has the capacity to host an additional mobile home whilst not compromising the character and appearance of the wider countryside.</p> <p>In considering this proposal, there is a duty under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Due regard has been given to the applicants and their family's traditional way of life, as well as the issues relating to the personal circumstances, as previously set out, and it is considered that the proposal would not undermine objectives of the Duty.</p> <p>Allowing this appeal would effectively create an extra pitch at this established Gypsy site. Miss Courtney is not a bona fide Gypsy in planning definition terms and, as such, the creation of a separate planning unit within this gypsy and traveller for occupancy by a person not meeting the planning definition would not normally be considered acceptable. However, given the family link and the personal circumstances of this application, there are considered to be exceptional circumstances that lead to a recommendation of approval. However, in recognition of the exceptional circumstances, it is necessary to make this permission temporary and limit the occupation of the site to Miss Courtney, and this will be secured by way of an appropriate condition.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Ulcombe Parish Council has requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> Headcorn	<b>PARISH COUNCIL:</b> Ulcombe	<b>APPLICANT:</b> Mr T. Deeprose
<b>TARGET DECISION DATE:</b> 25/09/2020 (EOT)		<b>PUBLICITY EXPIRY DATE:</b> 20/07/20

## **RELEVANT PLANNING HISTORY**

- MA/13/1022 - Application to approve details pursuant to conditions 3 (day room materials); 4 (foul sewage treatment); 5 (surface water disposal); and 6 (biodiversity enhancement strategy) of MA/12/1229 - Approved
- MA/12/1229 - Stationing of mobile home for residential occupation by Gypsy family and erection of dayroom and new access – Approved

### Adjacent site to east

- 19/503101 - Change of use for 8 pitch Gypsy & Traveller site comprising 1 mobile home, day room and touring caravan for each pitch – Refused (appeal in progress)

## **MAIN REPORT**

### **1.0 Site description**

- 1.01 The proposal site is located on the eastern side of Pye Corner, some 263m to the north-east of the junction with Headcorn Road. There are residential properties to the north of the site, and an unlawful Gypsy and Traveller site to the east. For purposes of the Local Plan the proposal site is within the countryside that also falls within Low Weald Landscape of Local Value. The site falls within Flood Zone 1.
- 1.02 The proposal site, known as Neverend Lodge, is a lawfully established and unrestricted Gypsy site, as permitted under MA/12/1229. The site can lawfully have 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan.

### **2.0 Proposal**

- 2.01 The proposal is for the siting of an additional mobile home, and for the erection of a 4-bay garage, stable block (4 stables) and day room. The proposed garage and stable buildings are to be located in proximity to the southern boundary of the site, next to the existing dayroom/office; and the proposed day room will be sited to the south of the mobile homes. The proposed dayroom provides a toilet, kitchen, and some amenity space.
- 2.02 In terms of materials:  
Stables – Timer weatherboard (light oak) with traditional green roof sheeting  
Garage – Timber weatherboard (light oak) with green roof sheeting  
Day room – Red brick plinth/timber weatherboard with green roof sheeting
- 2.03 The proposed mobile home is shown to be from the Stately-Albion Residential Collection. The model is referred to as the (40x20) Goodwood Range. In terms of dimensions it would measure some 12.2m by 6.1m, with an overall height of less than 3.05m. The additional mobile home will be occupied by the mother of Mrs Deeprise. Mr and Mrs Deeprise currently live on the site alone, as their children have grown up and moved away. For reference, the definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960 states that a caravan can be up to 20m in length and 6.8m in width; with the overall height being 3.05m.
- 2.04 The proposed plans also show the already permitted mobile home sited next to the additional mobile home. Whilst the approved plans for MA/12/1229 show the mobile home to be sited close to the southern boundary of the site, there was no condition imposed to restrict this position and as such the permitted mobile home can be sited anywhere within the authorised site. To be clear, this application has not altered the site boundaries to Neverend Lodge and this application is not considering the repositioning of the already permitted mobile home.

### 3.0 Policy and other considerations

- Maidstone Local Plan (2017): SS1, SP17; GT1, GT1(16); DM1; DM3; DM8; DM15; DM30; DM32; DM41
- National Planning Policy Framework (2019) & Planning Practice Guidance
- Planning Policy for Traveller Sites (2015)
- Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
- Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)

### 4.0 Local representations

4.01 One representation received from a neighbour raising following (summarised) issues:

- *Land ownership/rights of access*
- *Site is not allocated for development in Local Plan*
- *Development is retrospective*
- *Highway safety*
- *Who will occupy the mobile homes*
- *Visual impact*
- *Foul sewage disposal, electricity and water supplies*

### 5.0 Consultation responses

(Please note summaries of consultation responses are set out below with responses discussed in more detail in main report where considered necessary)

5.01 **Ulcombe Parish Council:** Object to proposal and has requested for application to be reported to Planning Committee:

- *Proposal should be considered in same way as other near-by Gypsy and Traveller sites (referring to 19/503101 - Land rear of Little Neverend Farm, Pye Corner)*
- *Proposal would result in significant harm to character, appearance and quality of rural landscape which is a landscape of local value*
- *Permission should not be given as there is a cumulative and dominant impact of lawful caravans on settled community*
- *Site is not in Local Plan 2017 and there are no overriding reasons to accept it*
- *Residential amenity impacts*
- *Site is in unsustainable location*
- *No evidence Gypsy status is met*
- *There is no obvious need for development*

5.02 **KCC Biodiversity Officer:** Raise no objection.

5.03 **KCC Highways:** Has considered proposal and its effect on highway network and raises no objection.

5.04 **Environmental Protection Team:** Raise no objection.

5.05 **Environment Agency:** Has no comments to make.

### 6.0 APPRAISAL

#### *Main issues*

6.01 The proposal site is a lawfully established and unrestricted Gypsy site, as permitted under MA/12/1229. The site can lawfully have 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan. As set out above, the repositioning of the already permitted mobile home is not for consideration here. This application is only considering the additional mobile home, and the proposed garage, stables and day room.

- 6.02 In the Government's Planning Policy for Traveller Sites (PPTS), the planning definition of 'Gypsies & Travellers' excludes those who have ceased to travel permanently. The current 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 show-people or circus people travelling together as such."*

- 6.03 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 someone falls within the definition (in terms of ceasing to travel temporarily), the PPTS 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.
- 6.04 The applicants currently occupy the site, as they did under MA/12/1229, when at this time their Gypsy status was accepted. Whilst this proposal is not considering the impact of the already permitted mobile home, for clarity's sake, the applicants continue to travel for work purposes to make a living, trading in antiques and cars. In general terms, their work can take them across the UK and France; they are usually away a couple of days a week throughout the year. When attending fairs, this can increase up to 3-4 days a week, around four or five times a year. The applicant's Gypsy status continues to be accepted in accordance with the provisions of the Government's PPTS.
- 6.05 The additional mobile home will be occupied by a close relative of the applicant Miss Mary Courtney, who has a serious medical condition and medical needs. Miss Courtney currently lives outside of the Maidstone borough and now requires regular care. Permitting this application will allow her to be closely cared for by the applicants. Miss Courtney has permanently ceased to travel for work purposes and does not therefore meet the Government's Gypsy status definition.
- 6.06 On this basis, the proposal's impacts will not to be considered against Local Plan policy DM15 or the Government's PPTS; and there is no reason to cover the issues of supply and need, in terms of Gypsy accommodation.
- 6.07 Local Plan policy seeks to protect the rural character of the borough and development in the countryside will not be permitted unless (inter alia) it accords with other policies in the Local Plan; it will not result in harm to the character and appearance of the area; and it will respect the amenities of occupiers of neighbouring properties. Local Plan policies also seek for new development to maintain, or where possible, enhance the local distinctiveness of an area; and the distinctive landscape character of Landscapes of Local Value should be conserved and enhanced. Local Plan policy DM32 relates to new domestic outbuildings; and policy DM41 relates to equestrian development.
- 6.08 Whilst not relevant here, because the intended occupant of the additional mobile home does not meet the Government's Gypsy status definition, it is still a material consideration that the site is allocated in the Local Plan (policy GT1[16]) for the addition of one permanent pitch subject to certain criteria.

#### *Sustainability*

- 6.09 The proposal site is an existing lawful Gypsy site and so the principle for Gypsy accommodation here has already been established. Furthermore, Local Plan policy GT1(16) also supports the addition of one mobile home on this site for Gypsies subject to certain criteria. With this considered, it would now be unreasonable to object to an additional mobile home on the grounds of the site's location.

*Visual impact*

- 6.10 The proposal site is an existing (unrestricted) lawful Gypsy site for one mobile home that can be sited anywhere within the authorised site. This application is only considering the landscape impact of the additional mobile home, and the garage, stable block, and day room.
- 6.11 The two mobile homes would be sited close together, just to the south of the existing parking area near the access, and adjacent to the existing driveway. The proposed dayroom would be located just to the south of the mobile homes. The proposed garage and stables would be sited at the southern end of the site, set close to the existing dayroom/office.
- 6.12 The proposed stables and garage would be grouped with existing buildings on the site, and their scale and traditional designs are low-key and sympathetic to the context of the site and its surroundings. Whilst the additional mobile home and proposed dayroom are more centrally located within the site, the scale and appearance of the mobile home is typical and not objectionable; and the day room is again a low key and appropriately designed building that is appropriately sized for its intended ancillary use.
- 6.13 Furthermore, the proposal would keep new development close to existing buildings and areas of hardsurfacing; the areas of pond and landscaping buffers the proposal from the road; and the retained undeveloped nature of the site to the east would be retained. As such, the relatively large site would continue to have an open and spacious feel; and given how enclosed the site already is by existing well-established boundary planting, public views of the proposal would be minimal, if any. To further safeguard the amenity of the area, suitable conditions will also be imposed for additional (native) planting within the site; and external lighting will be restricted.
- 6.14 It is therefore considered that the proposal would not appear visually intrusive or incongruous from any public vantage point, and it would not harmfully detract from the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value.

*Biodiversity implications*

- 6.15 The proposal site is in the countryside and it does include a pond. Concern was initially raised by the Biodiversity Officer that the proposal may have a negative impact on protected/notable species. However, after reviewing current site photos, it is clear the site is regularly mown grassland and hardstanding, and as such, the Biodiversity Officer is satisfied that there is no requirement for any ecological surveys to be carried out as part of this application. There is suitable habitat for protected species within the surrounding area and it is advised that if approved, the site is continued to be mown regularly until construction works commence to ensure suitable habitat for protected species does not establish within the site. A suitable informative will be added to advise the applicant of this. On this basis, no objection is raised to the proposal in ecological terms and no further details are required on this matter.

*Other matters*

- 6.16 The site is a lawful Gypsy site with its own existing access on to the highway. A residential use is not generally a noise generating use and it is considered that the addition of one mobile home here would not have an adverse impact upon the living conditions of any neighbouring occupant, including in terms of general noise and disturbance; and the proposal would not result in an unacceptable highway safety issue. The proposal site is a lawful Gypsy site and it is not considered that the addition of an additional mobile here, would result in it having an unacceptable impact upon the existing residential community, when considered cumulatively with other lawful gypsy sites in the vicinity.

- 6.17 The site falls within Flood Zone 1 and no objection is raised in terms of flood risk; foul sewage will be disposed of by way of septic tank (as existing); there are no arboricultural issues; and the Environmental Protection Team has raised no objection in terms of noise, land contamination, lighting, odour, radon, flies, accumulation and amenity.
- 6.18 Horses are already kept on site and so it is considered unnecessary to now request further details in terms of manure storage and how run-off from the stable, hardstandings, manure heaps, stable washings and hay soaking areas will be dealt with; there is adequate provision made for the safety and comfort of the horses in terms of size of accommodation and land for grazing and exercising; and access to the countryside and bridleways is not difficult.
- 6.19 The representations made by Ulcombe Parish Council and a local resident have been considered in the assessment of this application. It should be noted here that issues surrounding land ownership and rights of way disputes are private matters to be dealt with by the relevant parties involved; and issues of electricity and water supplies are also private matters. Furthermore, comparisons have been made between this site and a near-by unlawful Gypsy site, but it must be made clear that every individual planning application must be considered on its own merits against current policy/guidance.

#### *Conclusion*

- 6.20 In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policy SP17 allows for development provided it does not result in harm to the character and appearance of the area.
- 6.21 In this instance, it has been established that the intended occupant of the proposed additional mobile home does not meet the Government's planning definition of a Gypsy as set out in the PPTS, and as such Local Plan policy DM15 is not relevant. However, the site is a lawful unrestricted Gypsy site for one residential mobile home that can be sited anywhere within the authorised site; and it is considered that the proposed development as a whole would not have an adverse impact upon the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value. It is also a material consideration that Local Plan policy GT1(16) accepts the landscape impact of one additional mobile home on the site (albeit for those who meet the Government's planning definition).
- 6.22 Further to this, it is clear that the personal circumstances of the future occupant, who is a close relative of the applicant is a consideration here; and it is important that the applicants are close-by and able to provide 24hr care. Clearly there is connection between Miss Courtney and the applicants. In this instance, it is therefore considered at significant weight is given to the accommodation needs and personal circumstances of the applicant's family, as set out, and planning permission should be granted.
- 6.23 Regard has been had to the Human Rights Act 1998 and rights under Articles 3 and 8 and the Public Sector Equality Duty under the Equality Act 2010 in respect of private and family, and it is found that the proposal is acceptable, and as such there would be no violation of the human rights on this occasion. In permitting the proposal, this would allow for the stationing of an additional mobile home at an existing Gypsy site; and weighing this against public interest the site has the capacity to host an additional mobile home whilst not compromising the character and appearance of the wider countryside.

- 6.24 In considering this proposal, there is a duty under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Due regard has been given to the applicants and their family's traditional way of life, as well as the issues relating to the personal circumstances, as previously set out, and it is considered that the proposal would not undermine objectives of the Duty.
- 6.25 Allowing this application would effectively create an extra pitch at this established Gypsy site. Miss Courtney is not a bona fide Gypsy in planning definition terms and, as such, the creation of a separate planning unit within this gypsy and traveller for occupancy by a person not meeting the planning definition would not normally be considered acceptable. However, given the family link and the personal circumstances, there are exceptional circumstances that lead to a recommendation of approval. However, in recognition of the exceptional circumstances, it is necessary to make this permission temporary and limit the occupation of the site to Miss Courtney, and this will be secured by way of an appropriate condition.

**7.0 RECOMMENDATION:** GRANT planning permission subject to following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. 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 2015 (or any subsequent definition that supersedes that document);

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

3. No more than three caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans, and no further caravans shall be placed at any time anywhere within the site. The additional caravan hereby permitted shall not be occupied by any persons other than Miss Mary Courtney, and it shall be removed from the site within 3 months of Miss Mary Courtney ceasing residency of the caravan.

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

4. The buildings hereby approved shall be constructed with the external materials as shown on drawing ref: CJB/ME171EF/TP1a and the additional caravan shall be of the appearance as submitted. The development shall be maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

5. Prior to the occupation of the additional mobile home hereby approved, details of a scheme of landscaping (using indigenous species) which shall include indications of all existing trees and hedgerows on the land, and details of any planting to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:

- i) Location, species, number and size of all new trees and shrubs to be retained and planted; and
- ii) Retention and enhancement of boundary planting.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the additional caravan hereby approved, or following the commencement of works for either the garage, stables or day room hereby approved, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

8. No external lighting, whether temporary or permanent, shall be placed or erected within the site at any time.

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value and in the interest of amenity.

9. If the lawful use of the site ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings and buildings shall be removed;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value and in the interest of amenity.

10. The development hereby permitted (including the site layout) shall be carried out in accordance with the following plan: CJB/ME171EF/TP1a.

Reason: For the avoidance of doubt.

#### INFORMATIVES:

1. There is suitable habitat for protected species within surrounding area and the applicant is advised to continue regularly mow the site until construction works commence to ensure suitable habitat for protected species does not establish within the site.
2. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.
3. The applicant is advised to refer to a copy of the Environment Agency's Pollution Prevention Guidelines, PPG24 Stables, Kennels & Catteries, available on their website.

Case Officer: Kathryn Altieri