

REPORT SUMMARY

REFERENCE NO: - 22/503774/FULL		
APPLICATION PROPOSAL: Stationing of two additional mobile homes within existing gypsy site to accommodate additional family members and erection of replacement dayroom.		
ADDRESS: Delilah Lodge Frittenden Road Staplehurst Tonbridge Kent TN12 0DL		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: The reasons for committee referral are available below in section 4.		
WARD: Staplehurst	PARISH/TOWN COUNCIL: Staplehurst	APPLICANT: Mr P Roots AGENT: SJM Planning Limited
CASE OFFICER: William Fletcher	VALIDATION DATE: 12/08/22	DECISION DUE DATE: 30/11/22
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

15/501528/FULL

Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective).
Approved 26.06.2017

17/504081/FULL

Removal of condition 1 requiring site vacation after 3 years and condition 2 seeking removal of named occupier appending to planning permission to 15/501528 (Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective)).
Approved 27.10.2017

MAIN REPORT

1. DESCRIPTION OF SITE

1.01 Deliah Lodge is a lawful Gypsy site, with permanent (unrestricted) permission for one static mobile home (and one touring caravan). Temporary permission was originally granted under 15/501528/FULL with 17/504081/FULL. The site is accessed via a track from Frittenden Road to the north of the site (some 270m in length); and there are a number of Gypsy sites within the vicinity of the site. For the purposes of the Local Plan the application site is within the countryside that falls within the Low Weald Landscape of Local Value. The site is within Flood Zone 1; and the site is also more than 50m away from any Ancient Woodland and Local Wildlife sites.

2. PROPOSAL

- 2.01 The application is described as: Stationing of two additional mobile homes within existing gypsy site to accommodate additional family members and erection of a dayroom.
- 2.02 The two additional caravans would be sited 10m north west of the existing mobile home, to the front of the existing stable building located on a grassed area. Whilst described as a 'new' dayroom this is a replacement and would be sited in the same location as the existing day room, approximately 20m east of the existing mobile.
- 2.03 The application form indicates the external walls of the caravan would be 'brick and render' with a plain tiled roof and uPVC windows. The dimensions would be 12.8m by 4.3m in area with shallow pitched roofs and would be some 3.5m in height.
- 2.04 The proposed dayroom would measure some 14.2m by 7m in footprint (99m²); with a hipped roof less than 4m in height from its ridge to ground level. Its eaves would be some 2m in height. The day room would be finished in brick and render, with plain roof tiles.
- 2.05 The mobiles are sought to provide accommodation for the applicants' mother and mother in law, whilst there are health considerations both grandparents would also help provide childcare on occasion for the applicant's children.

3. POLICY AND OTHER CONSIDERATIONS

- Maidstone Local Plan (2017): SS1, SP17, DM1, DM3, DM8, DM15, DM23, DM30
 - Staplehurst Neighbourhood Plan (2016-2031)
 - Landscape Character Assessment (2013) & Landscape Capacity Study (2015)
 - National Planning Policy Framework (2021) & National Planning Practice Guidance
 - Planning Policy for Traveller Sites (2015)
 - Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
 - Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)
 - Regulation 22 Local Plan
- 3.01 Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met.
- 3.02 Policy PW2 of the Staplehurst Neighbourhood Plan states:
- PROPOSALS FOR NEW DEVELOPMENT IN THE COUNTRYSIDE BEYOND THE EXTENDED VILLAGE ENVELOPE WILL BE ASSESSED IN TERMS OF THE POTENTIAL IMPACT OF THE DEVELOPMENT UPON THE VISUAL SETTING AND LANDSCAPE FEATURES OF THE SITE AND ITS SURROUNDINGS, THE POTENTIAL IMPACT UPON THE BIODIVERSITY OF THE AREA AND OTHER RELEVANT PLANNING CONSIDERATIONS, SUCH AS THE IMPACT OF TRAFFIC AND NOISE. PROPOSALS WHICH FAIL TO DEMONSTRATE THESE IMPACTS CAN BE SATISFACTORILY ADDRESSED WILL NOT BE SUPPORTED.*
- 3.03 The NPPF is clear that good design is a key aspect of sustainable development and that permission should be refused for development that is not well designed; and section 12 of the NPPF refers to achieving well-designed places. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

- 3.04 The Maidstone Landscape Character Assessment (LCA) identifies the application site as falling within the Sherenden Wooded Hills LCA (Area 45). The landscape guidelines for this area are to 'CONSERVE'. Within the Council's Landscape Capacity Study, Sherenden Wooded Hills is assessed as being of 'HIGH' overall landscape sensitivity and is 'sensitive to change'.
- 3.05 The Council's Regulation 22 Local Plan was submitted to the Planning Inspectorate on 31st March 2022 and whilst this document is a material planning consideration, at this time it is not apportioned much weight.

4. LOCAL REPRESENTATIONS

Local Residents: No representations received.

Staplehurst Parish Council: *Object to application and wish for it to be reported to Planning Committee if minded to recommend approval for the following (summarised) reasons:*

- *Against Local Plan Policy SP17 and GT1 plus Staplehurst NP policy PW2;*
- *Limited information on flooding; and*
- *Unallocated site and is over intensification, urbanisation by stealth, of Low Weald.*

5. CONSULTATIONS

KCC Highways

- 5.01 No objections issued this consultee replied with their standing advice.

6. APPRAISAL

- 6.01 The key issues for consideration relate to: need for Gypsy sites; supply of Gypsy sites; Gypsy status/personal circumstances; location; visual impact; flood risk; and then other matters.
- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Show People Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period are shown in the table below (NB: due to the age of this document it has very limited weight as a material planning consideration).

Need for Gypsy and Traveller Pitches Oct 2011 to March 2031

Period	No of pitches
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
Total Oct 2011 to March 2031	187

- 6.04 The GTAA is the only complete assessment of need that is currently available forming part of the evidence base to the Local Plan. The GTAA when it was carried out provided a reasonable and sound assessment of future pitch needs. Notwithstanding this, each decision must be taken on evidence available at the time of the decision and the GTAA is now 11 years old.
- 6.05 The local plan review (Regulation 22) examination in public commenced on the 6 September 2022 (hearings currently adjourned). Whilst this document is a material planning consideration, at this time it is not apportioned much weight.
- 6.06 The Council's Regulation 22 Local Plan seeks to meet the future identified need for Gypsy and Traveller accommodation. A separate Gypsy, Traveller and Travelling Showpeople DPD will also be produced to manage the emerging need for the period until 2037. A call for sites exercise ran from 1 February 2022 to 31 March 2022 as part of the process. The Gypsy, Traveller and Travelling Showpeople DPD is at its early stages and is not due to be completed until 2024.
- 6.07 In contrast to the full assessment in the 2012 GTAA, (and whilst it is highlighted that nothing has to date been published), the work completed so far on an up to date assessment has indicated a significant emerging need for Gypsy and Traveller accommodation in the borough. This need is significantly greater than the need set out in the 2012 GTAA of 187 pitches.

Supply of Gypsy Sites

- 6.08 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide under the Housing Act (2004).
- 6.09 The following table sets out the overall number of pitches which have been granted consent from 1 October 2011, the base date of the assessment, up to 30 April 2022.

Since 1 October 2011, the base date of the GTAA, the following permissions for pitches have been granted (as of 30 April 2022):

Type of consents	No. pitches
Permanent consent	253
Permanent consent and personal condition	26
Consent with temporary condition	0
Consent with temporary and personal conditions	7

- 6.10 A total of 279 pitches have been granted permanent consent since October 2011. These 279 pitches exceed the Local Plan's 187 pitch target. The Council's current position (based only on the data in the 11 year old GTAA) is that it can demonstrate a 6.2 year supply of Gypsy and Traveller sites at the base date of 1 April 2021.
- 6.11 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.12 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year

supply of pitches (based on the 2012 assessment), the PPTS direction to positively consider the granting of temporary consent does not apply.

Gypsy status/personal circumstances

- 6.13 The Government's PPTS (August 2015) sets the planning definition of 'gypsies & travellers', and this excludes those who have ceased to travel permanently. The current definition is as follows (Annex 1):
- 6.14 '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.'
- 6.15 The definition still includes those who are of a nomadic habit of life, and those who have ceased to travel temporarily because of their own, or their dependants, health or education needs, or old age.
- 6.16 The applicant's status has previously been accepted under 15/501528/FULL, which is now a permanent permission; and the applicant's status is not questioned. The family now have children, who are dependents and not required to demonstrate Gypsy status, and it is considered reasonable for them to have more living space. Further to this, the mothers (who are of Gypsy heritage) will also live on the site. Both mothers are on their own and have their own personal issues; and living on the application site will not only provide them with support but will also enable them to help out with the family. Indeed, a multi-generational pitch is not unusual amongst the travelling community.
- 6.17 With regards to the status of the both mothers, their land-use needs relate to their ethnicity; and it is considered discriminatory to exclude them from the Government's definition just because they are no longer able to travel (Smith v Secretary of State for Levelling Up, Housing and Communities & Anr. Case Number: CA-2021-001741). In this instance, it is therefore considered that the desire and need to have a strong family unit on the site, outweighs their exclusion from the Government's definition above (considering Article 8 Human Rights Convention).

Location

- 6.18 Government guidance set out in the Planning Policy for Traveller Sites (PPTS) places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision (as opposed to local authority provision), and it acknowledges that sites are more likely to be found in rural areas. This is an exception to the principle of restraint in the countryside. In terms of broad principles, Local Plan policies and central government guidance both permit gypsy and traveller sites to be located in the countryside as an exception to policies which otherwise seek to restrain development. It should also be noted that the site is already an existing and lawful Gypsy site.

Visual Impact

- 6.19 As previously set out, guidance in the PPTS states that local planning authorities should very strictly limit new traveller development in the countryside. No specific reference to landscape impact has been outlined however this is addressed in the relevant Local Plan policies and the NPPF. Specifically, policy DM15 of the Local Plan allows for Gypsy accommodation in the countryside provided certain criteria are met. This includes allowing development that does not result in significant harm to the landscape and rural character of the area.

- 6.20 Deliah Lodge is a lawful Gypsy site, and currently on site is a mobile home, touring caravan, stable building, dayroom and associated hard surfacing. The site is also largely enclosed by close boarded fencing, with a mature hedgerow along the 'access road' which also provides some screening when travelling south towards the site.
- 6.21 The proposal would not see the site area of Deliah Lodge increased; an additional 170m² of hardstanding would be added to the site to provide an access and parking area situated between the two mobiles. The additional mobile homes would be set back more than 25m from the front (western) boundary of the site and surrounded by additional planting; and the proposed day room would be set back some 70m from this boundary. Whilst the mobiles are somewhat centrally located, there is still space around all the mobiles and utility buildings on site, it is not assessed that the proposal results in the site becoming 'cramped'.
- 6.22 The mobile homes are of a typical style and appearance and appear to fall within the definition of a caravan (Section 29 of the Caravan Sites and Control of Development Act 1960); the materials proposed are found on typically found on mobile homes on Gypsy and Traveller Sites.
- 6.23 The proposed day room is also considered to be of a simple design and of a modest scale, standing less than 4m in height and having a footprint of some 99m² in area, the quality of its external finish can be secured by way of appropriate condition.
- 6.24 To reiterate, the addition of two mobile homes and a day room would be read in the context of an existing lawful Gypsy site and would not appear visually dominant on the landscape; and it is also noted that any public view of the site from Frittenden Road would be from more than 250m away and through existing wider landscaping and built form. It is also considered that the proposal would not appear visually harmful from any other public highway. Notwithstanding this, there is also the opportunity to plant additional (native) planting, to help supplement existing landscaping in and around the site. To further safeguard the amenity of the surrounding landscape, external lighting can also be restricted by way of condition.
- 6.25 With everything taken into account, including the retention of existing landscaping and the potential for mitigation/further planting, it is considered that the development would cause some harm to the character and appearance of the countryside hereabouts that falls within the Low Weald Landscape of Local Value, but that in landscape terms it would be in accordance with Local Plan policy DM15 as this harm to the landscape and rural character of the area is not considered to be significant. In visual amenity terms, the development is therefore considered to be in accordance with the relevant policies of the Local Plan; the Staplehurst Neighbourhood Plan; the aims of the revised NPPF.

Other matters

- 6.26 The application site is not located in an area at risk from flooding (Flood Zone 1); surface water disposal would be via soakaway; and foul sewage would be via a septic tank. A submitted Flood Risk Assessment and Drainage report also concludes that no objection should be raised to the development in flood risk terms. With everything considered, no objections are raised to the application in this respect and no further details are required. Furthermore, no objections are raised in terms of land contamination and air quality.
- 6.27 The development would make use of the existing access for Deliah Lodge, and this would be acceptable in highway safety terms; there is sufficient parking/turning provision on the site; and the traffic generation as a result of the additional mobile homes would not have a severe impact upon the local road network.

- 6.28 Given the separation distances of the development from any dwelling, given the existing use of the site, and given that a residential use is not generally a noise generating use, this development would not have an adverse impact upon the living conditions of any neighbouring resident, including in terms of general noise and disturbance. Furthermore, after assessing the potential impact on the existing residential community, the proposal is found to be acceptable, when considered on its own merits and then cumulatively with other lawful gypsy sites in the vicinity. In the interests of amenity, external lighting can be controlled by way of appropriate condition.
- 6.29 With the managed character of the land, the development is unlikely to have had an adverse impact upon any protected species, and so no further details on this are required prior to the determination of this application. Notwithstanding this, one of the principles of the NPPF (para 180) is that: Opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. On this basis, if the application were to be approved a suitable condition could be imposed to seek biodiversity enhancement on the site.
- 6.30 Regard should be given to the Human Rights Act 1998 and rights under Articles 3 and, and the Public Sector Equality Duty (PSED) under the Equality Act 2010. This protects the right of an individual to, amongst other things, a private family life and home; there is a duty 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; and the courts have held that the best interest of the children shall be a primary consideration in planning decisions concerning children, including requiring a settled base.
- 6.31 In addition to this, race is one of the protected characteristics under the Equality Act 2010 and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and his family who will occupy the caravans, and it is considered that the requirements of the PSED have been met and approving this development would not undermine the objectives of the Duty.
- 6.32 Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted.
- 6.33 The issues raised by Staplehurst Parish Council have been considered in the assessment of this application. The submission is not EIA development.

7. CONCLUSION

- 7.01 There is a general policy constraint on development in the countryside but there is an exception for Gypsy accommodation. Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policies SP17 and DM30 allow for development provided it does not result in harm to the character and appearance of the area. The Council's Regulation 22 Local Plan, although not apportioned much weight at this time, states that there is a potentially significant emerging need for Gypsy & Traveller accommodation.
- 7.02 In this instance, the occupation of the additional mobile homes will be restricted by way of condition and there is no reasonable justification to object to this type of development on sustainability grounds in terms of location. Furthermore, the development is not considered to cause significant harm to the character and

appearance of the countryside that falls within the Low Weald Landscape of Local Value; it is considered to be acceptable in flood risk terms; and there are no other planning objections raised to the development.

- 7.03 With everything considered, the development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of permanent approval is therefore made on this basis, subject to the suggested conditions.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

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 development hereby permitted shall be carried out in accordance with the following approved plans:

Application for planning permission

2022-1121v1-Location Site Location Plan

2022-1121v1a-PropDay Proposed Ground Floor Plan and Elevations

2022-1121v1a-PropMobile Proposed Ground Floor Plan and Elevations

2022-1121v1-ExistBlock Existing Block Plan

2022-1121v1a-PropBlock Proposed Block Plan

Planning Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) Prior to the first occupation of the development hereby approved, written details of the materials to be used in the external surfacing and roofing of the mobile homes and the day room hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials and maintained as such thereafter.

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

- 4) 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.

- 5) No more than 3 caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the land at any one time, of which no more than 3 shall be a static caravan or mobile home. The mobile homes shall be positioned on the site as set out on the submitted drawings and the touring caravan shall only be used for the purposes ancillary to the residential use of the mobile home hereby approved.

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

- 6) 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 within two months from the date of the use ceasing.

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

- 7) No vehicles over 3.5 tonnes shall be stationed, stored or parked on 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.

- 8) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development; to safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value; and in the interests of residential amenity.

- 9) Prior to the first occupation of the additional mobile homes hereby approved, details of a scheme of soft landscaping, using indigenous species, together with a programme for the approved scheme's implementation, 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, perennials and shrubs to be planted within site; and

(ii) Provision of new 100% mixed native species hedgerow planting along northern boundary of application site;

Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted. 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; and in the interests of biodiversity enhancement.

- 10) The approved landscaping scheme shall be in place at the end of the first planting and seeding season following the first occupation of the additional mobile homes hereby approved. Any planting which, within a period of 5 years from the first occupation of the development die, are removed, or become 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; and to enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 11) Prior to the first occupation of the additional mobile homes hereby approved, a scheme for the enhancement of biodiversity on the site, to include the installation of a minimum of one bat tube on each of these mobile homes, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the additional mobile homes and all features shall be maintained as such thereafter.

Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.

- 12) 12. No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. Any details to be submitted shall be in accordance with the 2005 Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

Reason: In the interest of amenity.

- 13) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission (as shown on the approved plans).

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside that falls within the Low Weald Landscape of Local Value; and in the interests of residential amenity.

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 Maidstone Housing & Communities Support Team in respect of a licence or apply online at:

<https://www.gov.uk/apply-for-licence/caravan-and-camping-site-licence/maidstone/apply-1>