

**REPORT SUMMARY**

<b>REFERENCE NO - 15/506338/FULL</b>			
<b>APPLICATION PROPOSAL</b> Permanent siting of one static and one touring caravan and two storage sheds for residential use by Romany gypsies			
<b>ADDRESS</b> The Chances, Lughorse Lane, Hunton Kent			
<b>RECOMMENDATION –</b> Permission			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development, subject to the conditions stated, 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.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Hutton Parish Council wish to see the application refused.  The application is a departure.			
<b>WARD</b> Coxheath And Hunton Ward	<b>PARISH/TOWN COUNCIL</b> Hunton	<b>APPLICANT</b> Mrs Lena Smith <b>AGENT</b> E And P Building Design	
<b>DECISION DUE DATE</b> 02/10/15	<b>PUBLICITY EXPIRY DATE</b> 02/10/15	<b>OFFICER SITE VISIT DATE</b> 2/09/2015	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
15/506245/FULL	Permanent siting of mobile home and one touring caravan for residential use by gypsy family (adjoining site)	Pending	
10/1336	Variation of enforcement appeal reference ENF/8968 Conditions 1 and 2 to allow the use of the site for the siting of a mobile home and a touring caravan on a permanent basis for an extended gypsy family –	Temporary 4 year personal permission	Committee 22.11.2010
11/1900	Variation of condition 4 of planning permission MA/10/1336 to read: 'No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which not more than 2 shall be a static caravan) shall be stationed on the site at any time.'	Permitted	11.10.2012
ENF/8968	The Inspector allowed use of the current site for a temporary personal permission for 3 years for stationing of caravans and use as a traveler site.	Allowed	7.08.2007
10/1542	Planning permission on the adjoining field to north of the site was refused for change of use of land to provide two plots for gypsy travelers	Refused: Impact on open countryside	Committee 11.08.2011

## **MAIN REPORT**

### **1.0 BACKGROUND**

1.1 This site and the adjoining site to the east (15/506245/FULL ) are allocated for use as traveller sites in the new Local Plan (Regulation 19) under policy GT1 (7). Policy GT1 (7) advises in accordance with policy GT1, planning permission for 4 permanent pitches at The Chances, Lughorse Lane, Hunton, will be granted providing the total site capacity does not exceed 4 pitches; future permissions to include additional landscaping and ecology mitigation.

### **2.0 SITE DESCRIPTION**

2.1 The application site is located on the south side of Lughorse Lane in the open countryside. The site has been granted temporary consent for the use as a traveller site and stationing of caravans (now expired) since 2006. The site has been subdivided and planning permission is sought for two permanent traveller sites covering the site area of the previous temporary permission.

2.2 The site is set back approx. 130m from Lughorse Lane and is accessed via a vehicle track running through the adjacent field to the north. The vehicle track is formed of compacted hard-core and is shared with the adjoining site to the east. PROW KM163 crosses the vehicle access to the west of the site. An area of ancient woodland is located to the southwest of the site. The remaining areas surrounding the site to the north, east, south and west is open countryside / fields. Further to the south is a commercial engineering premises. There is mature vegetation along the site boundaries with the exception of the vehicle access point on the western boundary. The site is located within a Special Landscape Area.

### **3.0 PROPOSAL**

3.1 This is a retrospective planning application and the site has been occupied by gypsy travellers since approx. 2006 with temporary permission originally allowed at appeal and later extended as a further temporary permission.

3.2 Permanent permission is now sought for the siting of one static and one touring caravan and two storage sheds, for residential use by Romany gypsies. The caravan, tourer and two small sheds are located adjacent the northern site boundary with the vehicle access and a parking area along the south and east boundary of the site. The vehicle access track is shared with the adjoining site.

### **4.0 POLICIES AND OTHER CONSIDERATIONS**

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, GT1 (7), DM16
- Planning Policy for Traveller Sites (PPTS)

### **5.0 LOCAL REPRESENTATIONS**

5.1 Some 10 objections have been received. The main points of objection are summarised as follows:

- Impact on the character of the surrounding area / countryside.
- The applicant rarely uses the site.
- Permanent permission is not appropriate
- The need for a permanent permission is not clear.
- The applicant has not looked for alternative sites.

- The site is used for business activities.
- The area is prone to flooding.
- Education is not provided locally.
- Pressure on local infrastructure.
- Isolated house in the countryside.
- Emergency access.
- The applicants have ignored planning regulations.
- Not a sustainable location.
- Previous permissions have been for temporary consent.
- Inadequate access.
- The previous justification for this site is no longer relevant.
- The applicant does not use the site.
- Drainage issues.

5.2 Three letters of support have been submitted, and are summarised as follows:

- The applicant is an honest and nice person.
- The applicant should not be made homeless.

5.3 **Hutton Parish Council:** *'Would like to see this application refused and requests that the application is referred to MBC Planning Committee. The Parish Council would like to see this retained as a temporary permission. Should MBC Planning Committee be minded to make the permission permanent, the Parish Council would like the permanent permission to be for a named person (the applicant) only, to last for the period until she leaves the site.'*

## 6.0 CONSULTATION RESPONSES

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

6.2 **KCC PROW:** No objections

6.3 **Environmental Health Team:** No objections

## 7.0 PRINCIPLE OF DEVELOPMENT

7.1 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."*

7.2 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 ENV34 (Special Landscape Area) affords greater protection to the rural landscape.

7.3 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.

7.4 In determining whether persons are “gypsies and travellers” for the purposes of the PPTS, consideration should be given to the following:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- 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.

7.5 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 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

7.6 These figures were agreed by Cabinet on the 13<sup>th</sup> 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.

7.7 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 DM16 of the Regulation 19 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.

7.8 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**

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

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

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

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

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

7.12 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 17 (minus 1) pitches remains outstanding.

7.13 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**

7.14 Annex 1 of the PPTS defines gypsies and travellers as:-

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.”*

7.15 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.

7.16 A permanent non personal permission is sought in this instance, i.e. any gypsy traveller could occupy the site providing they fall within the definition of a gypsy traveller. Nevertheless it is still necessary examine the gypsy status of the applicant.

7.17 The applicant’s agent has submitted information to demonstrate that the applicant Lena Smith falls within the current definition of a gypsy / traveller. The following information has been provided to address criteria a-c:

- Evidence that the applicant has lived on various other traveller sites in the past.
- Gypsy status of the applicant accepted during previous applications on this site.
- Various destinations that the applicant travels to each year including invoices and letters from several caravan parks around the UK.
- Evidence / invoices demonstrating that the applicant travellers frequently for work.
- A statement explaining that the applicant intends to continue living a nomadic habit of life.

- 7.18 From this I consider there is sufficient evidence that the applicant Lena Smiths is from the travelling community and continues to lead a nomadic habit of life and it is accepted that she falls within the gypsy status definition.
- 7.19 The personal circumstances of the applicants were put forward during previous assessment of this site for gypsy occupation. No evidence has been submitted indicating that the applicant has any dependants attending local schools and no health reasons have been provided with the current application. Notwithstanding this the applicant has provided sufficient evidence of her gypsy traveller status and the permission sought is non personal and permanent.
- 7.20 Given the fact the Council is unable to offer any alternative accommodation the need to provide accommodation for the applicant weigh in the determination of this application.
- 7.21 As stated above, this application proposes a non personal permission and the site could be occupied by any gypsy traveller should Members be minded to grant permission.

## **8.0 VISUAL IMPACT**

- 8.1 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 ENV34.
- 8.2 The landscape in the vicinity of the application site is in relatively flat agricultural land, interspersed with hedgerows and woodland blocks. The site itself is fairly well enclosed. There is mature hedgerow / tree planting along the north, east and majority of the west boundary with the exception of the vehicle access, and a wooded area is located to the south of the site. The boundary screening and distance of the site from Lughorse Lane all limit mid- to long-distance views into the site. Short range views are afforded from the PROW located to the west of the site. These are close range views and are limited to the vehicle entrance and access track. There is a further gypsy/traveller caravan sites adjacent (app no. 15/506245/FULL), to which the application site would be well related without significant cumulative visual impact. In this context the development is not considered to be visually intrusive, and would be neither incongruous nor discordant. The vegetation along northern boundary could be improved to plug up any gaps to further improve the screening and further limit views of the site from Lughorse Lane. This could be adequately secured by condition.
- 8.3 Overall it is considered that the site is currently well screened and subject to additional supplementary planting along the northern boundary, the continued use of the site for permanent occupation as a gypsy traveller site would not cause undue harm to the open countryside and Special Landscape Area.

## **9.0 SUSTAINABILITY**

- 9.1 Gypsy traveller sites will almost inevitably be located in countryside locations. The site is located less than 1 miles form Hunton and less than 2 miles from Yalding. In my view, I do not consider the site to be so far removed from basic services, schools and other facilities as to justify grounds to refuse this application in terms of being unsustainable.

## **10.0 RESIDENTIAL AMENITY**

10.1 The site is some distance from the nearest residential properties such that I am satisfied that the development would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of loss of light, outlook and privacy and in terms of general noise and disturbance. The Environmental Health Department have confirmed there have been no complaints regarding this site. A further gypsy traveller application is currently under consideration on the adjoining site. Sufficient screening is provided on the east boundary between the two sites.

## **11.1 HIGHWAY SAFETY IMPLICATIONS**

11.1 The site has an established vehicle access onto Lughorse Lane along the boundary of the field to the north of the site. The development would not result in a significant increase in traffic 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 sufficient 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 on highways safety or parking grounds.

## **12.0 LANDSCAPE AND BIODIVERSITY IMPLICATIONS**

12.1 The site has been in use as a gypsy traveller site since 2006 and hard-core for the vehicle access and parking areas is already laid and the sites have been cleared and caravans have been stationed within the site. Not including the established vegetation along the site boundaries the application site is likely to have limited ecological value due to the continued occupation.

12.2 One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". Biodiversity enhancements shall include erection of bird / bat boxes within the site and could be secured by condition.

12.3 As stated above the site is well screened and benefits from established mature boundary vegetation. Additional landscaping along the northern site boundary would improve the landscape and biodiversity within the site.

12.4 No objections have been raised by KCC, the forestry commission and landscape officer on the grounds that that there would be any impact on the ancient woodland to the south of the site.

## **13.0 OTHER CONSIDERATIONS**

13.1 Given the location of the proposal site, I am satisfied that there are no objections to be raised in terms of flood risk. The layout plan indicates a cess pit within the site but no further details have been provided. In the event of permission being granted a condition is recommended for further information on drainage and the cess pit.

13.2 There are other gypsy and traveller sites within the wider area in Hunton and Yalding but I do not consider the granting of permission here would lead to an unacceptable over-concentration of sites, or result in unacceptable visual harm given the distance between each of the sites. Further, given the sporadic residential development within the immediate area it is not considered that this site would individually or cumulatively dominate the nearest settled community or place undue pressure on the local infrastructure.

13.3 I am satisfied that the 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.

13.4 I do not recommend any conditions restricting occupancy to the applicant on the basis that the site and development are considered acceptable for all the reasons above. In the case of this specific site, there is no reason to object to a permanent unrestricted use as a gypsy site.

#### **14.0 CONCLUSION**

14.1 The site is located within the countryside; however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for traveller sites document.

14.2 The visual impact of the development is minimal. There is good boundary screening and the site is set back from the road. Nonetheless, boundary treatment and landscaping conditions should still be imposed to enhance and secure the appearance of the site, secure the existing trees and planting; and also the required planting.

14.3 The application site, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, does not dominate the settled community.

14.4 In the context of gypsy and traveller accommodation, the application site is considered to be in a relatively sustainable location that is not so remote from services and facilities to justify a refusal.

14.5 The application development does not have any adverse impact on residential amenity.

14.6 The application development does not lead to any increased risk to highway safety.

14.7 There are no other significant planning issues that would warrant refusal of the application.

14.8 I therefore consider the development is acceptable and recommend permanent permission.

#### **11.0 RECOMMENDATION – GRANT Subject to the following conditions**

##### CONDITIONS to include

- (1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than one static caravan and one tourer, 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.

- (3) No commercial or business activities shall take place on the land;

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

- (4) Within three months of the date of this decision notice, details of 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' and include a programme for the approved scheme's implementation, maintenance and long term management plan shall be submitted for approval in writing 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 new planting along the northern site boundary;
- ii) The retention and enhancement of the existing planting along all boundaries of the site.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (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 the date of the 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 ensure a satisfactory setting and external appearance to the development.

- (6) Within three months of the date of this decision, details of the erection of bat and bird boxes within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: in the interests of ecology.

- (7) No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV49 of the Maidstone Borough-Wide Local Plan (2000).

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

## Planning Committee Report

15-5611-02 Rev A (Site Location Plan) and 15-5611-02 Rev A (Existing Site Block Plan); dated August 2015.

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

### INFORMATIVES

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Andrew Jolly

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.