

## REPORT SUMMARY

<b>REFERENCE NO - 15/501168/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land to use as a residential caravan site for one gypsy family with one mobile home, one touring caravan, utility building and hardstanding.		
<b>ADDRESS</b> Orchard Farm Nursery, Chartway Street, Sutton Valence, Kent, ME17 3JB		
<b>RECOMMENDATION – GRANT PLANNING PERMISSION subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The proposed development, subject to imposition of the recommended conditions will comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> It is contrary to the views expressed by Broomfield and Kingswood Parish Council		
<b>WARD</b> Leeds	<b>PARISH/TOWN COUNCIL</b> Broomfield & Kingswood	<b>APPLICANT</b> Ms Teony Ackleton <b>AGENT</b> WS Planning And Architecture
<b>DECISION DUE DATE</b> 06/04/15	<b>PUBLICITY EXPIRY DATE</b> 06/04/15	<b>OFFICER SITE VISIT DATE</b> 26/02/16

### MAIN REPORT

#### 1.0 SITE DESCRIPTION

- 1.1 The application site is rectangular in shape and currently open with existing Gypsy and Traveller development abutting the site to the north and east.
- 1.2 The western site boundary is defined by a dense hedgerow running down to Chartway Street while to the south are number of small polytunnels abutting a parking area. Fronting Chartway Street is a hedgerow interspersed with some trees.
- 1.3 Site access is gained via a controlled gated access onto Chartway Street. In a wider context the site is located in open countryside not subject to any specific landscape designation.

#### 2.0 PROPOSAL

- 2.1 Planning permission is sought to change the use of the land to a gypsy caravan site for one gypsy family on which one mobile home and one touring caravan will be stationed along with provision of a utility building and areas of hardstanding. The proposed site layout shows the mobile home stationed centrally on site but close to the northern site boundary. The utility building comprises a toilet, utility area and an floor space set aside as a day room. The building, which will be clad in timber boarding and have a pitched roof has a footprint of 9.9 x 4.5 metres, an eaves height of 2.8 metres and a

ridge height of just under 4 metres. It is intended to provide additional planting on the northern site boundary while existing hedgerows on the south and west site boundaries are shown to be retained.

- 2.2 Surface water is being disposed of via a soakaway while waste water is to be dealt with via a cess pit.
- 2.3 The mobile home occupants will be Ms Teony Ackleton and Thomas Dawns who intend to get married and therefore need their own pitch. Ms Ackleton wants to be at Orchard Farm as this will enable her to be with her relatives. Ms Ackleton travels to horse fairs to sell doors mats while Mr Dawns buy and sell horses at horse fairs when he is not undertaking landscaping work.

**Response to request for clarification of Gypsy status:**

- 2.5 Government guidance which came into force in August 2015 makes clear that persons claiming Gypsy and Traveller status in support of an application must provide evidence to show they intend to carry on a nomadic /traveller lifestyle.
- 2.6 In response to this the following additional information has been submitted.
- 2.7 Both Ms Ackleton and Mr Downs currently lead a nomadic lifestyle. They are getting married and want a permanent base for when they come back from being away at fairs. Ms Ackleton already has family in existing mobile homes on nearby adjoining sites including her grandparents, sister, brother and cousins. They intend to start a family where Ms Ackleton will become more settled though her future husband will continue to travel to find work.

**3.0 RELEVANT PLANNING HISTORY**

- 3.1 To the north and east of the application site there are already existing lawful Gypsy and Traveller sites as follows:

MA/09/1697: Retrospective application for the change of use of land to residential for the stationing of 1 no. mobile home – APPROVED 2<sup>nd</sup> July 2010 personal permission granted for Miss Sharna Ackleton, her partner and any dependent children.

MA/11/1534: Change of use of land to use as a residential caravan site for 2 gypsy families involving the siting 4 caravans of which no more than 2 are to be static mobile homes; the erection of 2 amenity blocks; and the laying of hard standing and construction of a driveway.- APPROVED- 7<sup>th</sup> September 2011 allowing unrestricted permanent occupation of site by gypsies and travellers.

MA/12/0605: Change of use of land to use as residential caravan site for one gypsy family with two caravans, erection of an amenity building and laying of hardstanding – APPROVED- 2<sup>nd</sup> April 2012 allowing unrestricted permanent occupation of site by gypsies and travellers.

- 3.2 On land immediately abutting the northern boundary of the application site retrospective planning permission is being sought under ref: MA/12/1544 for the change of use of land to use as a residential caravan site for 2 Gypsy families with up to 4 caravans of which no more than 2 would be static caravans, including the laying of hard surfacing and the erection of 2 amenity buildings. This application is currently undetermined and is also an item for consideration on this agenda.

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

- Development Plan 2000: ENV6, ENV28, T13
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, DM26
- Planning Policy for Traveller Sites (PPTS) revised August 2016

#### **5.0 LOCAL REPRESENTATIONS**

5.1 13 Neighbours notified – no representation received.

#### **6.0 CONSULTATION RESPONSES**

6.1 **Broomfield and Kingswood Parish Council:** Wish to see the application refused for the following reasons:

- Continued expansion of this site is creating a merging between neighbouring traveller sites in Cross Drive.
- The site is becoming oversized contrary to government recommendations.
- The parish already has three considerable sized traveller sites, as well as several smaller sites in the immediate locality and feel this expansion is contrary to the policy of “working collaboratively to develop fair and effective strategies to meet needs”.
- Approval of this expansion will “increase tensions between settled and traveller communities”.
- The parish is at risk of being overwhelmed by traveller sites if continued expansion of this or other sites continue.

6.2 **Kent Highways:** No objection.

6.3 **EHO:** There are several Gypsy and Traveller applications within the vicinity of this site which were granted. Sewage will be dealt with by means of a cess pit, but no further details have been provided. Further details regarding potable water and sewage disposal should be required as a condition of any permission granted. The site should only be used for residential only and maintained in good order. It should not be used for business purposes, it should also not be used for the use and/or storage of commercial vehicles. Any tourers on site should not be used for habitation. The site should not be occupied before all the conditions of the Caravan Sites Licence are met.

#### **7.0 APPRAISAL:**

7.1 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) sustainability (e) impact on general and residential amenity (f) highway safety and (g) landscape, wildlife and habitat considerations.

##### **Principle of Development**

7.2 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.

7.3 Policy ENV28 relating to development in the countryside states ,amongst other things, that;

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

- 7.4 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes Gypsy and Traveller development.
- 7.5 A key consideration in the determination of this application is Government Guidance set out in ‘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 sites are likely to be found in rural areas.
- 7.6 Though work on the emerging local plan is progressing there is currently no adopted policy 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 instructed 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 the information in this report at paragraph 7.11 remains the current need figure.
- 7.7 The need figures in the GTAA were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and are included in the consultation version of the Local Plan. The current GTAA provides the best evidence of need that is available at this point in time and decisions need to be based on this available evidence.
- 7.8 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, by implication, accepts this type of accommodation can be provided in the countryside provided 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.
- 7.9 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.

#### **Need for Gypsy sites**

- 7.10 The Planning Policy for Traveller Sites’ (PPTS) gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 7.11 The projected accommodation requirement as concluded by the GTAA 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

7.12 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
- 33 Temporary personal permissions

7.13 Therefore a net total of 89 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 17 pitches remains outstanding to meet the obligation to provide 105 permanent pitches for the period October 2011 to March 2016.

7.14 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**

7.15 Since this application was submitted, the Government has revised the national planning guidance for Gypsy and Traveller development contained in 'Planning Policy for Traveller Sites' (PPTS). The revised guidance came into force on 31<sup>st</sup> August 2015, with the planning definition of 'gypsies & travellers' 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."*

7.16 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, 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.

7.17 In response to the above the applicant has advised the following:

- Both Ms Ackleton and Mr Downs currently lead a nomadic lifestyle.
- They are getting married and want a permanent base for when they come back from being away at fairs.
- Ms Ackleton already has family in existing mobile homes on nearby adjoining sites including her grandparents, sister, brother and cousins.
- They intend to start a family where Ms Ackleton will become more settled though her future husband will continue to travel to find work.

7.18 In connection with other Gypsy and Traveller applications the Council has been challenged on its alleged failure to properly assess whether occupants of Gypsy and Traveller sites qualify as Gypsies and Travellers. As one of the proposed occupants is

related to existing gypsies and traveller families in very close proximity it is considered their Gypsy and Traveller status is shown due to these family links.

- 7.19 Regarding whether the proposed occupants have lived a nomadic lifestyle and intend to continue living in such a manner; though the submitted information lacks detail it must be taken into account that Gypsy and Travellers by their very nature, live a less regulated lifestyle compared to many in the settled community. Given the intended family circumstances of the occupants of the mobile home, it is considered highly likely that to provide a stable base of for the children, occupation of the mobile home would be permanent for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties in providing a stable base for the children. In addition there is no reason to assume the carer/s would not resume their nomadic lifestyle once the children were older.
- 7.20 In assessing this application further information on the work history and location of the times, dates and occupants would have been useful however it is reiterated that by their very nature Gypsy and Traveller lifestyles make monitoring such activities problematic in planning terms. In the absence of clear substantiated evidence to refute the occupant's claims both of an existing nomadic lifestyle and intention to continue this lifestyle, the submitted information must be taken at face value.
- 7.21 As such it is considered the applicants are Gypsies and Travellers that have led and will continue to lead a nomadic lifestyle and therefore continue to fall within the revised definition of gypsies set out above.

### **Visual Impact**

- 7.22 Guidance in the Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should strictly limit new traveller development in the countryside, where sites are in rural areas they should not dominate the nearest settled community and should not place undue pressure on local infrastructure. Whilst no specific reference is made to landscape impact this is addressed in the NPPF and policy ENV28 of the adopted local plan.
- 7.23 Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes it clear that exceptions will be permitted if justified by other policies contained in the plan.
- 7.24 It is generally accepted that mobile homes can comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in terms of visual impact. Consequently where they are permitted this is normally on the basis of being screened by permanent features such as hedgerows, tree belts, buildings or land contours.
- 7.25 In this case, the application site abuts existing lawful Gypsy and Traveller development to the east while running along the western site boundary is a high dense tree screen running right down to Chartway Street. Abutting the site to the south is an open area on which are sited a number of polytunnels to the south of which is an area of parking. On the Chartway Street frontage there is an existing hedgerow interspersed with trees. As such the caravans and amenity building will be sited within an inward looking and enclosed space not easily visible from outside the site. There may be glimpsed views

but subject to the southern site boundary being supplemented by native species planting visual impact will be minimised.

- 7.26 Concerns have been raised that the mobile homes and amenity block will result in harm to the rural character of the locality and consolidate the wider site as a focus of Gypsy and Traveller development. Concerns have been raised relating to the cumulative impact of gypsy and traveller development in the locality and the dominating impact this has on the nearest settled community.
- 7.27 For the reasons set out above including the relatively well screened nature of the site it is considered that the proposed caravans and amenity block will not result in a cumulative visual impact. The proposal will not appear over dominant to the detriment of the character and openness of the countryside.

### **Sustainability**

- 7.28 Gypsy and Traveller sites are often located in the countryside and the application site follows this pattern. The site is located within 1.5 kilometres of Kingswood and about 2 kilometres from Sutton Vallence allowing access schools, medical provision and shopping facilities. As such it is not considered the site is sufficiently remote from services to justify refusal on sustainability grounds particularly having regard to the existence of adjoining lawful gypsy and traveller sites.

### **General and Residential Amenity**

- 7.29 The site is relatively well screened and that the nearest house is located over 100 metres to the west. In these circumstances it is not considered that the proposed caravans and amenity block will have any significant detrimental impact on the residential amenity of any neighbouring houses including in terms of loss of light, outlook, privacy, general noise and disturbance.
- 7.30 Of wider concern is the view that the local community is being overly dominated by Gypsy and Traveller development. However given the small number of persons being accommodated it is considered it would be problematic to seek to make such a case in the circumstances of this application.

### **Highway and Safety Considerations**

- 7.31 The access onto Chartway Street has satisfactory visibility splays. With the nature of the development it will not generate significant traffic movements. In these circumstances and in the absence of objection from Kent Highways no objection is identified to the development on these grounds.

### **Landscape, Wildlife and Habitat Considerations**

- 7.32 The site is open and undeveloped and grassed. The site has little wildlife and habitat potential in its current form. The current proposal includes additional planting on the northern site boundary and the retention of an existing hedgerow on the southern site boundary. It is considered that the use of native species for new planting and supplement planting to the southern boundary hedgerow will secure a reasonable wildlife habitat while ensuring that the site is appropriately screened.

## **8.0 CONCLUSIONS:**

8.1 The following conclusions are reached:

- As one of the intended occupants of the mobile home is related to Gypsy and Travellers on adjoining sites and have confirmed their intention to maintain a nomadic lifestyle the occupants fall within the definition of Gypsies and Travellers contained within the revised Government Guidance.
- The development is acceptable in its visual impact and does not dominate the local settled community either in its cumulative impact with other development or impact on local services.
- The use has not resulted in any material loss of amenity to dwellings in the locality.
- The use is acceptable in sustainability, landscape wildlife and habitat terms.
- The use is acceptable in its highway impact.

8.2 As such, given the shortfall of permanent pitches in meeting the need shown in the GTAA; in the absence of overriding objection on other grounds, granting permanent planning permission here will make a valuable contribution to meeting unmet demand while placing the Council in a better position to resist similar development on more sensitive sites in the future. As such it is recommended that planning permission be granted for this development.

## **9.0 RECOMMENDATION – GRANT PLANNING PERMISSION subject to 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 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.

(3) If the use hereby permitted ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings, and utility rooms shall be removed within 3 months of cessation;

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

(4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

(5) Prior to first occupation of the site details of landscaping scheme using indigenous species and including the retention and enhancement of the existing planting along the

site boundaries shall be submitted for approval in writing by the Local Planning Authority.

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

- (6) All planting contained within the approved landscaping scheme shall be carried out in the first planting season following occupation of the development hereby approved. Any trees or plants which within a period of five years 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 for a variation.

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

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

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

- (8) Prior to commencement of the development hereby approved details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be in place before first occupation of the development and retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (9) The development hereby approved shall be carried out in accordance with the following approved plans being plans and drawing received on the 23rd August 2012, 8th February 2013 and 9th February 2015.

Reason: In the interests of amenity.

#### INFORMATIVES

- (1) Highways:

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

- (2) Foul sewage:

Details submitted to discharge the relevant planning condition should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the

discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

(3) Caravan site licence:

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.

(4) General waste provisions:

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

Case Officer: Graham Parkinson

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.