

REPORT SUMMARY

REFERENCE NO - 12/1544		
APPLICATION PROPOSAL Retrospective application 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 .		
ADDRESS Orchard Farm Nursery, Chartway Street, Sutton Valence, Maidstone, Kent, ME17 3JB		
RECOMMENDATION - GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: 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.		
REASON FOR REFERRAL TO COMMITTEE It is contrary to the views expressed by Broomfield and Kingswood Parish Council		
WARD Leeds	PARISH/TOWN COUNCIL Broomfield & Kingswood	APPLICANT Mrs M Ackleton AGENT Philip Brown Associates
DECISION DUE DATE 02/10/13	PUBLICITY EXPIRY DATE 02/10/13	OFFICER SITE VISIT DATE 26/02/16

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with existing Gypsy and Traveller development abutting the site to the north and east.
- 1.2 The site is occupied by two mobile homes and two amenity blocks. The site is divided into two by a close boarded fence running in a north to south direction. The easterly much larger area has a mobile home sited close to its northern boundary while in the south west corner an amenity building has been erected. The remainder of the site is surfaced and used for amenity space, parking and turning.
- 1.3 The western, much narrower plot has a mobile home at its southern end with an amenity building against the northern site boundary.
- 1.4 The western site boundary is defined by a dense hedgerow running down to Chartway Street. The southern site boundary abuts an open rectangular area which is the subject of a current planning application for the stationing of a mobile home, touring caravan, utility building and caravan submitted under application ref: 15/501168. To the south of

this is a further open area on which are sited a number of small polytunnels abutting a parking area. Fronting Chartway Street is a hedgerow interspersed with some trees.

- 1.5 Site access is gained via a controlled gated access onto Chartway Street.
- 1.6 In a wider context the site is located in open countryside not subject to any specific landscape designation.

2.0 PROPOSAL

- 2.1 This is retrospective application and planning permission is sought to retain to two mobile home and two amenity blocks along with associated parking and turning area and fencing that has been erected. Consent is also sought to station two touring caravans.
- 2.2 Native species hedgerows will be planted along the southern and eastern site boundaries along with additional tree planting.
- 2.3 The pitches are occupied by members of the extended Ackleton Family.
- 2.4 Surface water is being disposed of via a soakaway while waste water is being dealt with by a package treatment plant

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. There are two occupied mobile homes on the site (A and B) and the following has been submitted for each mobile home.

Mobile Home A:

- 2.6 This is occupied by Mr and Mrs Beaney, both 24 years old, their daughter of 2 years. Mrs Beaney is pregnant with the baby expected in August 2016.
- 2.7 They are cousins to the existing family already living on the site where grandparents also live along with aunts and uncles.
- 2.8 Their nomadic lifestyle consists of travelling to find work which can be in many areas including the Isle of Wight, Norfolk, Cambridge, Birmingham and Wales. Absence from the site can be for weeks or months at a time.

Mobile Home B:

- 2.9 This is now only occupied by Mr Tommy Frankham (50 years old) as his wife is deceased.
- 2.11 He is a cousin to an existing family living on the site and is an uncle to their children.
- 2.12 His nomadic lifestyle consists of going from place to place to buy and sell horses at fairs and markets taking him away the site anytime between March and October for periods between 3 and 6 months.

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 2nd 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- 7th 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- 2nd April 2012 allowing unrestricted permanent occupation of site by gypsies and travellers.

- 3.2 In addition on land immediately abutting the southern boundary of the application site planning permission is being sought under ref: MA/15/501168 for the 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. 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)

5.0 LOCAL REPRESENTATIONS

- 5.1 4 objections have been received which are summarised as follows:
- Believe site lies within an area of ancient woodland and its protection is an overriding consideration.
 - There are already too many gypsy and travellers in the area while their sites are too close to one another. The net effect makes their integration into the local community problematic while being contrary to Government policy.
 - Site is being further subdivided without consent further eroding the character of the area.
 - Site access is poor and additional traffic causes harm to the free flow of traffic and highway safety.
- 5.2 **Cross Drive Residents Association:** Objects on the following grounds:
- There are already too many caravans in the area while there is evidence that caravans on the adjoining Finches site are being occupied on a long term basis contrary to conditions that were imposed.

- The number of gypsy and traveller sites is having a detrimental impact on the rural character of the area and impact on services.

6.0 CONSULTATION RESPONSES

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

- Has a considerable visual impact from the road and there is already concern regarding the consolidation effect of numerous traveller/gypsy sites already in close proximity along Chartway Street which in turn impacts immensely on the wider area.
- Expansion of this traveller site will harm rural appearance of the area and should be taken into consideration alongside of another planning applications currently being processed for expansion of a caravan park in the neighbouring property.
- With the existing level of provision of traveller sites already within this parish there is no need for any addition to the existing site; MBC should strictly limit traveller site expansion and respect the scale of existing local sites so that they do not dominate the nearest settled communities of Kingswood and East Sutton.
- This application is not an effective use of land that had been a previously well managed and widely used nursery, which has been allowed to become derelict.
- The current traveller site at this location has been enclosed effectively and deliberately isolating itself from the rest of the community.
- Local Parishes should not suffer the consequences of the lack of provision for travelers and gypsies due to the absence of any Local Planning Authority Policy to supply alternate deliverable sites.

6.2 East Sutton Parish Council:

Contravenes Government advice as follows:

- A Local Planning Authority should identify a supply of specific deliverable sites. This site has not been identified for gypsy and traveller development.
- The number of pitches or plots should relate to site circumstances and the surrounding population's size and density – contend that Chartway Street has become a sprawl of traveller and caravan sites and looks a mess.
- When assessing the suitability of sites in rural areas the scale of such sites should not dominate the nearest settled community –contend the number of traveller sites have resulted in this.
- Regard must be had of the availability of alternative accommodation for the applicants – contend that no mention of a particular families housing needs or personal circumstances have been provided and in the absence of this it is possible the applicant's are already currently housed elsewhere.
- Will result in the loss of a long standing rural business.

6.3 Kent Highways: No objection as the proposal is not likely to lead to a significant increase in traffic and is served from an existing access where visibility splays are satisfactory and there is no history of injury crashes.

6.4 KCC Ecology:

- Does not appear to be much potential for ecological impacts. The most interest is the hedgerow/treeline along the western boundary.

- The proposed layout provides an opportunity to ensure boundaries of the site are retained and enhanced for biodiversity by maintaining the hedgerow and hedge-bottom appropriately. Advise the hedgerow is cut only every 2-3 years, any gaps are filled with native species and that an unmown grass margin of 1m from the hedge is retained to provide biodiversity opportunities.
- Any additional hedge creation must use native species, preferably a mix of different species rather than just one.

7.0 APPRAISAL:

- 7.1 Firstly it is acknowledged that retrospective planning permission is being sought here. Members are reminded of the requirement to consider the application on its planning merits in the same manner as an application submitted before development commenced.
- 7.2 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 7.3 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

- 7.4 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 7.5 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.”*
- 7.6 Policy ENV28 sets out the type of development that can be permitted in the countryside and this does not include gypsy and traveller development. However 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.
- 7.7 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 and in response 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 this information provides the most up to date information on need.
- 7.8 The figures on need that are provided later in this report were agreed by Cabinet on the 13th March 2013 as the pitch target and were included in the Regulation 19 consultation version of the Local Plan. The current GTAA provides the best evidence

of need available at this point in time and planning decisions need to be based on information that is available.

- 7.9 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.
- 7.10 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

- 7.11 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 7.12 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

- 7.13 Taking into account this time period, since 1st 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

- 7.14 Therefore a net total of 89 permanent pitches have been granted since 1st 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.

- 7.15 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

- 7.16 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 31st August 2015, with the planning definition of 'Gypsies and Travellers' being 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.”

- 7.17 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.
- 7.18 In response to the above the applicant has provided the following information:
- The pitches are occupied by members of the extended Ackleton Family who are acknowledged to be Gypsies and Travellers.
 - One mobile home is occupied by Mr and Mrs Beaney (who is pregnant and expecting a baby in August 2016) and their daughter of 2 years.
 - They are cousins to the existing family already living on the site where grandparents also live along with aunts and uncles.
 - Their nomadic lifestyle consists of travelling to find work which can be in many areas including the Isle of Wight, Norfolk, Cambridge, Birmingham and Wales. Absence from the site can be for weeks or months at a time.
 - The other mobile home is now solely occupied by Mr Tommy Frankham (50 years of age) as his wife is deceased.
 - He is cousin to an existing family living on the site and an uncle to their children.
 - His nomadic lifestyle consists of going from place to place to buy and sell horses at fairs and markets taking him away the site anytime between March and October for periods between 3 and 6 months.
- 7.19 In connection with other Gypsy and Traveller applications the Council has been challenged on its alleged failure to properly assess whether occupants of Gypsies and Travellers sites qualify as Gypsies and Travellers. Given the current occupants are related to existing Gypsies and Traveller families in close proximity it is considered that their gypsy and traveller status is shown due to these family links.
- 7.20 Regarding whether the 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 family circumstances of Mr and Mrs Beaney, 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. Regarding Mr Frankham, given his single status, it is considered highly likely he will continue his nomadic lifestyle.
- 7.21 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. In addition, even if it is alleged the occupants have housing accommodation elsewhere this does not preclude them from resuming a Gypsy and Traveller lifestyle nor this this does this affect their ongoing Gypsy and Travellers status.

- 7.22 It is concluded that 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

- 7.23 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside, where sites are in rural areas they not should dominate the nearest settled community and shall not place undue pressure on local infrastructure. No specific reference is made to landscape impact however, this is addressed in the NPPF and policy ENV28 of the adopted local plan.
- 7.24 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.
- 7.25 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.
- 7.26 In this case, the application site is abuts existing lawful gypsy and traveller development to the north and 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 mobile homes and amenity buildings which have been erected (and which are all low profile) are sited within an inward looking and enclosed space not easily visible from outside the site though there are glimpsed views into the wider site through the site access.
- 7.27 Concerns have been raised that retention of the mobile homes and amenity blocks will result in ongoing harm to the rural character of the locality and consolidate the wider site as a focus of gypsy and traveller development. For the reasons set out above it is considered that the continued presence of the caravans and amenity blocks have not resulted in making the wider grouping of gypsy and traveller development appear more intrusive or over dominant. It is considered that the caravans and buildings do not cause detriment to the character and openness of the countryside.
- 7.28 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. In purely visual terms it is reiterated the inward looking and well screened nature of the site results in the development having little impact such that visual harm based on cumulative visual impact do not apply here.

Sustainability

- 7.29 Gypsy and Traveller sites are often located in the countryside and the current application site follows this pattern. The current site is located within 1.5 kilometres of Kingswood and about 2 kilometres from Sutton Vallence allowing access to schools, medical provision and shopping facilities. It is not considered that 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

- 7.30 The application site is well screened and that the nearest house is located over 100 metres to the west. For these reasons it is not considered retention of the mobile homes and amenity blocks will have any ongoing significant detrimental impact on the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 7.31 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 try and make such a case in the circumstances of this application.

Highway and safety considerations

- 7.32 The access onto Chartway Street has satisfactory visibility splays and the development will not generate any significant traffic. 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

- 7.33 Given the retrospective nature of the application and that the site is now either covered by buildings, laid out as hardstanding or grassed, it clearly has little wildlife and habitat potential in its current form. Regarding what could be done to improve the situation the intention is to plant the southern site boundary with a mix of native species hedging which has not been done and can be conditioned. This will secure a reasonable level of wildlife habitat.
- 7.34 Concern has been raised that the application site falls within an area of ancient woodland. The Council's records do not show the site on ancient woodland and there is no other evidence available to show that the site has this designation.

8.0 CONCLUSIONS:

- 8.1 The following conclusions have been reached
- As the occupants of the mobile homes are related to Gypsy and Travellers on adjoining sites and have confirmed their intention to maintain a nomadic lifestyle (childcare responsibilities permitting) it is considered they continue to fall within the definition of Gypsies and Travellers contained within the revised Government Guidance.
 - The development is acceptable in its visual impact and has not materially contributed to dominating the local settled community either in its cumulative impact with other development or impact on local services.
 - Has not resulted in any material loss of amenity to dwellings in the locality.
 - Is acceptable in sustainability, landscape wildlife and habitat terms.
 - Is acceptable in its highway impact.

8.2 As such, given the shortfall of permanent pitches in meeting the provisions of the GTAA and in the absence of overriding objection on other grounds, granting retrospective and permanent planning permission here will make a valuable contribution to meeting this 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 retrospective development.

9.0 RECOMMENDATION – GRANT PLANNING PERMISSION subject to the following planning conditions

(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 two caravan and two tourers, 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) 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) Within three months of the date of this decision details of landscaping scheme using indigenous species and including the retention and enhancement of the existing planting along 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 approval of the landscaping scheme. 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) Within three months of the date of this decision 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 implemented within 3 months of approval retained as such at all times thereafter.

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

INFORMATIVES

- (1) Foul sewage:

Details 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.

- (2) 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.

- (3) 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.