

REPORT SUMMARY

REFERENCE NO - 14/500696/AMRCON		
APPLICATION PROPOSAL Remove conditions 1 and 2 of MA/07/2232 (change of use from agricultural land to residential for gypsy family and stationing of one mobile home and one touring caravan) with a condition which reads "The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (Department for communities and local guidance). Vary condition 3 to allow no more than 4 caravans (2 static and 2 touring caravans) to be stationed on the sites at anytime.		
ADDRESS Oakland Place Greenway Forstal Harrietsham Kent ME17 1QA		
RECOMMENDATION - GRANT Subject to the following conditions		
SUMMARY OF REASONS FOR RECOMMENDATION Whilst there is conflict with saved policies ENV28 and ENV34 of the Development Plan, the personal circumstances of the applicants and the ongoing need for gypsy and traveller sites are considered to outweigh this conflict.		
REASON FOR REFERRAL TO COMMITTEE - It is contrary to views expressed by Harrietsham Parish Council.		
WARD Harrietsham And Lenham Ward	PARISH COUNCIL Harrietsham	APPLICANT Mr Tony Lee AGENT Mr Philip Brown
DECISION DUE DATE 23/07/14	PUBLICITY EXPIRY DATE 05/08/15	OFFICER SITE VISIT DATE 19/02/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

MA/07/2232 - Change of use from agricultural to residential for gypsy family and stationing of one mobile home and one touring caravan – Refused (allowed on appeal)

MAIN REPORT

1.0 Site description

1.01 'Oakland Place' is a lawful gypsy site that was allowed on appeal in 2009. The site is of a general rectangular shape with existing vehicle access onto Greenway Forstal Lane. The site is softly landscaped, with established planting all around the plot. The site is within the countryside that falls within the North Downs Special Landscape Area as defined by the Maidstone Borough-Wide Local Plan 2000 (MBWLP). 'Mount Farm' is the nearest neighbour to the north-west of the site; the Garden of England Mobile Home Park is some 90m to the south-east; and agricultural land is found behind the site. There is limited development in the surrounding area and what development there is, is sporadic; and the site is located approximately 1000m to the north-west of the village of Harrietsham.

2.0 Background information

2.01 The proposal submitted under MA/07/2232 was for the change of use of land from agricultural to residential for a gypsy family and for the stationing of 1 mobile home and 1 touring caravan. This application was refused by the Council but subsequently allowed on appeal by the Planning Inspectorate in July 2009, who granted a personal permission for Mr Lee and his wife Betsy Devall and their 2 daughters. The Inspector concluded:

".....there is some localised harm to the character and appearance of the countryside and that it results in the loss of a small amount of BMV land. However the harm is limited extent and I consider that it is outweighed by the other material considerations, and in particular the identified unmet need for the sites for Gypsies and Travellers that is both immediate and significant in extent; the specific accommodation need of this family; the lack of any known alternative sites; the absence of any policy in the development plan against which alternative sites could be assessed; and the education needs of the 2 children."

3.0 Proposal

- 3.01 The applicant seeks to remove conditions 1 and 2 of the original decision notice so that the site can be occupied by any person falling within the gypsy definition; and seeks permission for an additional mobile home and touring caravan on the site (varying condition 3). Conditions 1, 2 and 3 state:

1. The occupation of the site hereby permitted shall be carried out on only by the following and their resident dependants: Tony Lee and Betsy Devall.

2. When the land ceases to be occupied by those named on condition 1 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.

3. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time.

- 3.02 The additional mobile home is for Mr Lee's daughter, Betsy, and her partner to allow them to form their own household; and the applicant wishes to remove the personal restriction as it inhibits the applicant's ability to use the site as collateral in raising finance to provide improved facilities.
- 3.03 The additional pitch would make use of the existing access from Greenway Forstal and it would be sited behind the existing mobile home and include the additional laying of hardstanding.

4.0 Policy and other considerations

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan (submission version): SP17, GT1, DM7, DM16, DM34
- DCLG - Planning Policy for Traveller Sites (August 2015)

5.0 Consultations

- 5.01 **Harrietsham Parish Council:** Wish to see the application refused and reported to Planning Committee;

"There is no justification for the change in conditions. The original conditions should stand as they are still valid."

- 5.02 **KCC Highways:** Raises no objection.
- 5.03 **Environment Agency:** Raises no objection with recommended condition.
- 5.04 **Southern Water:** Raises no objection.
- 5.05 **Neighbour representations:** 18 representations received. 1 raised no objection to the proposal and the others raised concerns over loss or property value; visual/landscape impact; residential amenity; highway safety/parking; and setting a precedent.

6.0 Principle of development

- 6.01 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.”

- 6.02 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.

- 6.03 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.

- 6.04 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

- 6.05 These figures were agreed by Cabinet on the 13th March 2013 as the pitch target and were included in the consultation version of the Local Plan. The borough is now into the next Local Plan period (April 2016-March 2021) which has a need of 25 pitches, equating to an average of 5 pitches a year.

- 6.06 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 spring 2017.

- 6.07 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

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

- 6.09 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 81 Permanent non-personal permissions
- 13 Permanent personal permissions
- 3 Temporary non-personal permissions
- 33 Temporary personal permissions

- 6.10 Therefore a net total of 94 permanent pitches have been granted since 1st October 2011. As such there is a shortfall of 36 pitches for the 2011-2021 period.

- 6.11 The submitted version of the Local Plan carries significant weight and it will deliver approximately 41 pitches for Gypsy and Traveller accommodation to assist in meeting needs during the plan period.

Gypsy Status

- 6.12 Since the application was submitted, the Government has issued revisions on the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, and the planning definition of 'gypsies & travellers' have been 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."

- 6.13 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 in terms of ceasing travel temporarily, 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.

- 6.14 It is accepted that Mr Lee and his wife are a long established Kent gypsy family, as confirmed by the Planning Inspector under MA/07/2232. The additional pitch will be for their daughter Betsy, who travels with the rest of her family throughout the year, and her partner who is also a member of the travelling community who canvasses and travels for work in landscaping, moving to wherever the work is. It is therefore reasonable to say that Betsy and her partner have not ceased to travel permanently or temporarily; and that they will continue to travel for work. With the evidence

before me I am therefore of the view that Betsy and her partner lead a nomadic habit of life and accept that they fall within the gypsy status definition for the purposes of planning.

Sustainability

- 6.15 The gypsy site is existing and it is approximately 1km to the west of the village of Harrietsham and its services/amenities and public transport links. I therefore consider it unreasonable to argue that this proposal would be any more unsustainable in terms of location than the existing situation and raise no objection in this respect.

7.0 Visual Impact

- 7.01 Guidance in the PPTS states that local planning authorities should very 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 has been outlined, however this is addressed in the NPPF and saved Local Plan policy ENV28.
- 7.02 Whilst set behind the existing mobile home, the proposal would be sited on an open area of land and the development of this site would see this change what with the addition of a mobile home, touring caravan, hardstanding and the attendant paraphernalia that comes with this. Views of it would be possible from a short section of Greenway Lane and at certain points along the A20 to the south of the site. However, this harm is considered to be localised and in these views it would be seen in the context of 'Oakland Place' and the nearby mobile home park to the east.
- 7.03 It should be noted that the Planning Inspector (under the appeal for MA/07/2232) considered the application based on a layout plan that showed the mobile home sited towards the rear of the site, in a not too dissimilar location than what is now proposed for the additional mobile home. So whilst further details of layout were requested by way of condition, it seems to me that the principle of development this far back into the site was not considered unacceptable by the Inspector.
- 7.04 The site already benefits from a well established mixed native hedge to the front boundary and established Laurel planting around the site; and existing hard boundary treatment consists of low level timber post and rail fencing. Given this, it is considered unreasonable and unnecessary for further soft landscaping to be insisted upon.
- 7.05 In summary, the Planning Inspector accepted that the addition of 1 mobile home on this site did have an *"urbanising effect on the site.....and has resulted in harm to the character and appearance of the immediate area"*, but this harm was outweighed by other material considerations. This localised visual harm remains to the character and appearance of the countryside and Special Landscape Area, and in my view the addition of another mobile home on this site would further detract from the landscape. This identified harm does weigh against the proposal, particularly as guidance in the PPTS now seeks to very strictly limit new traveller development in the countryside. With this considered, I do not consider an unrestricted use of the site (as applied for) is appropriate for this site.
- 7.06 It is also worth noting that if this application is refused, then as expressed by the Planning Inspector given their local roots to the area, there is the likelihood of the applicant's daughter and her partner becoming homeless and needing to stay on

roadsides or unlawful sites which could potentially be more visually harmful than their occupation on the proposal site.

8.0 Residential Amenity

- 8.01 A residential use is not generally a noise generating use; and the nearest residential property would be more than 50m away. Given this, I am satisfied that the addition of a second mobile home would not have a significant detrimental impact on the residential amenity of any neighbouring residence, in terms of general noise and disturbance and privacy.

9.0 Highway safety implications

- 9.01 The proposal makes use of the existing access; it would provide sufficient parking and turning facilities; the proposal is unlikely to lead to a significant increase in traffic generation or an unacceptable intensification of use of the access; and I also consider the local highway network to be capable of accommodating any additional traffic. The Highways Authority have also raised no objection, and so I am satisfied that this proposal would not result in an adverse highway safety issue.

10.0 Other considerations

- 10.01 Given the current condition and location of the proposal site, and the nature of the proposed development, I am satisfied that there are no objections to be raised in terms of flood risk and it is considered unnecessary to request any further ecological information given the well maintained nature of the site. The Environment Agency have recommended a condition for details of a scheme for the disposal of foul and surface waters in order to prevent pollution of the water environment as the site lies in a Source Protection Zone 2. This condition will be duly imposed.
- 10.02 The issues raised by Harrietsham Parish Council and local residents have been addressed in the main body of this report. I would also add that the loss of property value is not a material planning consideration; and each application is considered on its own merits and would not set a precedent for future development. It is also thought that the proposal would not result in an over concentration of gypsies and travellers in the area.

11.0 Conclusion

- 11.01 The desire to keep a family together and to allow the applicant's daughter to remain within the local area to start her own family, as opposed to being potentially homeless, does demonstrate there is a need for her and her partner to have a permanent base. However, due to the location of this site in an area afforded additional landscape protection, I consider it inappropriate to grant unrestricted permission. This sentiment was echoed by the Planning Inspectorate under MA/07/2232, as quoted previously within this report.
- 11.02 The determination of this application centres on the balance to be struck between the harm to the character and appearance of the countryside and SLA and the on-going need to provide accommodation for gypsies and travellers. So whilst the proposed development would cause some visual harm, which will be mitigated to a degree through the existing landscaping, the specific family requirements of the applicant together with the ongoing need to provide accommodation for gypsies and travellers leads to a recommendation for a personal permission (in line with the previous Inspector) and I therefore recommend conditional approval of the application on this basis.

RECOMMENDATION –GRANT Subject to the following conditions:

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

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

- (2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Tony Lee, Betsy Devall, Betsy Lee and partner.

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 reflect the personal needs of the named persons and their families, and to safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (3) When the land ceases to be occupied by those named in condition 1 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (4) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (5) No lighting whether permanent or temporary shall be installed on the site without the prior written consent of the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area and neighbouring amenity.

- (6) No vehicle over 3.5 tonnes shall be parked or stored on the site.

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (7) No commercial activities shall take place on the land, including the storage of materials;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

- (8) The development shall not commence until details of the proposed means of foul and surface water disposal have been submitted to and approved in writing by the local planning authority;

Reason: To prevent pollution of the water environment as the site lies in a Source Protection Zone 2.

- (9) The development hereby permitted shall be carried out in accordance with the proposed layout plan received 28/05/14;

Reason: To safeguard the character and appearance of the countryside that falls within a Special Landscape Area.

Case Officer: Kathryn Altieri

- 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.