

REPORT SUMMARY

REFERENCE NO - 16/505930/FULL		
APPLICATION PROPOSAL Retrospective application for change of use of land to use as a residential caravan site for 2 gypsy families, each with 2 caravans including no more than one static caravan for each family, erection of amenity building and laying of hardstanding.		
ADDRESS Land At Hawthorn Place, Greenway Forstal, Harrietsham, Kent, ME17 1LB		
RECOMMENDATION Approve with conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development is not considered to be adversely visually harmful to the countryside; and there are no residential amenity or highway safety issues.		
REASON FOR REFERRAL TO COMMITTEE Recommendation is contrary to the views of Harrietsham Parish Council.		
WARD Harrietsham And Lenham	PARISH/TOWN COUNCIL Harrietsham	APPLICANT Mr Lee Austin AGENT Philip Brown Associates
DECISION DUE DATE 27/09/16	PUBLICITY EXPIRY DATE 05/09/2016	OFFICER SITE VISIT DATE 15/08/16
RELEVANT PLANNING HISTORY Adjoining sites to the south: 14/500696 - 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 – Permitted 07/2232 - Change of use from agricultural to residential for gypsy family and stationing of one mobile home and one touring caravan – Allowed at Appeal. Permanent permission. Adjoining site to the west: 08/0417 - Change of use of land for the stationing of 4no. residential mobile homes for a gypsy family - refused Adjoining site to the east: 04/1679 - Change of use of land to allow stationing of 15 residential mobile homes (extension to Garden of England Park) – Refused		

MAIN REPORT

1.0 Site description

- 1.01 The site is located on the north side of Greenway Lane to the rear of an existing lawful gypsy traveller site known as Oakland Place which has (permanent) permission to station up to 4 caravans (no more than 2 static). The site is located in the countryside with arable fields to the north, east and west of the site. Further to

the east is the Garden of England caravan park. Further to the west is a residential property known as Mount Farm and a cluster of commercial units. The North Downs AONB is located further to the north of the site. The site is accessed via a shared (with the site to the front) entrance from Greenway Lane. A plan of the site is attached as appendix 1.

2.0 Proposal

2.01 This is a part retrospective application for the change of use of land to use as a residential caravan site for the stationing of 2 static caravans for occupation by gypsy traveller, 2 tourers and one amenity building and the laying of hardstanding.

The applicant has also shown additional (proposed) boundary landscaping along the northeast and southeast boundary. The mobile homes are occupied by George Nye, together with his daughter's family, Lee Austin and Rosie Nye and their young son.

At the time of my site visit there were two tourers on site. So it is proposed to bring two static caravans onto the site and erect a utility block.

3.0 Policy and other considerations

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

4.0 Consultations

4.01 **Harrietsham Parish Council:** Wish to see the application refused and reported to Planning Committee for the following summarised reasons;

- Detrimental impact upon residential amenities and the visual impact of the development

4.02 **KCC Highways Officer:** Raises no objection.

4.03 **Environmental Health Officer:** Raises no objection.

4.04 **Neighbour representations:** No representations have been received.

5.0 Principle of development

5.01 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."

5.02 Policy ENV28 then outlines the types of development that can be permitted and this does not include gypsy and traveller development.

5.03 However, 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.

- 5.04 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.
- 5.05 In addition, the submitted version of the Development plan went to the Secretary of State for examination in May 2016 and examination will follow in October/November this year. This Plan and its policies are considered to hold significant weight; and policy SP17 of this Plan seeks to restrict development in the countryside, whilst policy DM16 accepts this type of accommodation can be provided in the countryside provided certain criteria are met.

Need for Gypsy Sites

- 5.06 Although the emerging local plan is well advanced, there are not yet any adopted development plan policies 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 commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. 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

- 5.07 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the emerging Local Plan, and it is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. 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.
- 5.08 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and submitted to the Secretary of State on 20th May 2016.

Supply of Gypsy sites

- 5.09 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).
- 5.10 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- 84 Permanent (non-personal)
 - 16 Permanent (personal)
 - 3 Temporary (non-personal)
 - 33 Temporary (personal)

- 5.11 Therefore a net total of 100 permanent pitches have been granted since 1st October 2011. A further 87 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 5.12 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The submission Draft Local Plan does allocate specific sites, and these are sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan. The Local Plan's adoption is currently timetabled for the latter half of 2017.
- 5.13 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. With the submission of the Local Plan, the council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016. In these circumstances, the PPTS direction to positively consider the granting of a temporary consent does not apply.

Gypsy Status

- 5.14 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."

- 5.15 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 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.
- 5.16 The agent has confirmed that the applicant and his family continually travel to horse fairs around the country. Typically, they travel to Appleby and to Gloucestershire. George and Lee travel for the purpose of their living. The agent confirms the applicants are from a Roman Gypsy background and continue to travel for the purpose of making their living as roofers. It is therefore reasonable to say that the applicants have not ceased to travel permanently or temporarily; and their agent has confirmed they intend to continue to travel for work for the purposes of making a living. With the evidence submitted the council is satisfied that the applicants lead a nomadic habit of life and accept that they fall within the gypsy status definition for the purposes of planning.

Sustainability

- 5.17 Gypsy traveller sites will almost inevitably be located in countryside locations, and the site is located approximately 1km to the east of Harrietsham village. In my view, I do not consider the site to be so far removed from basic services and public

transport opportunities as to justify grounds to refuse this application in terms of being unsustainable. Additional pitches were recently approved on the adjoining site therefore this location has been accepted as being an appropriate location for a gypsy traveller site.

6.0 Visual Impact

- 6.01 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 adopted Local Plan policy ENV28.
- 6.02 The access track is existing and the site is set back some 65m from Greenway Lane and is partially screened by the existing gypsy traveller site and associated landscaping / boundary treatment located to the front of the site. Glimpses of the site are possible from Greenway Lane and the applicant proposes to plant additional hedge and tree planting along the northeast and southeast boundary to supplement the existing planting. The additional planting would help to screen the site further and a suitable condition could be imposed to ensure the retention and enhancement of the boundary planting is safeguarded. Further, it is considered that the site is located a significant enough distance away for any public view to not appear dominant, nor would the site appear incongruous in this setting due to the location of the adjoining gypsy traveller site and the nearby Garden of England caravan park.
- 6.03 There is an existing gypsy traveller site located to the southwest of the site with planning permission to station 4 caravans (no more than 2 static). I do not consider that a further 4 caravans (2 static) and an amenity building in this location would unacceptably harm the character of the countryside through the overconcentration of caravans due to the existing and proposed boundary planting. The site would be viewed in the foreground of the adjoining gypsy traveller site and it is located a sufficient distance to the south of the AONB so as not to have a harmful impact on the setting of the AONB.
- 6.03 I am therefore satisfied that the development does not appear prominent or visually intrusive in the surrounding landscape and I consider an unrestricted permanent use of the site to be acceptable.

7.0 Residential Amenity

- 7.01 A residential use is not generally a noise generating use; and the nearest residential property would be more than 100m away. The siting of the caravans and proposed use of the site is not considered to give rise to any unacceptable amenity issue to the adjoining gypsy traveller site. Given this, I am satisfied that the proposal would not have a significant detrimental impact on the residential amenity of any neighbouring residence, in terms of general noise and disturbance and privacy.

8.0 Highway safety implications

- 8.01 The two pitches make use of the existing access; there is sufficient parking and turning facilities within the site; and the development does not lead to a significant increase in traffic generation or an unacceptable intensification of use of the access. I am therefore satisfied that the development would not result in a highway safety issue.

9.0 Other considerations

- 9.01 The proposal site is within Flood Zone 1; the site consists of an area of hardstanding (access track) and maintained grass areas; and no boundary planting will be removed as part of this development. I therefore raise no objections in terms of flood risk and it is considered unreasonable to request any further ecological information. Environmental health has raised no objections in terms of land contamination; air quality; noise; lighting and amenity. A condition is recommended to deal with foul and potable water for the site.
- 9.02 The issues raised by Harrietsham Parish Council have been addressed in the main body of this report and it is also considered that the development would not result in an over concentration of gypsies and travellers in the area.
- 9.03 In accordance with National planning policy, the issue of intentional unauthorised development is a material consideration in the determination of this retrospective application. In this instance it is not considered to be reason alone to refuse this application as the development is considered to be acceptable.

10.0 Conclusion

- 10.01 For the reasons set out, the development is not considered to be adversely visually harmful to the countryside; and there are no residential amenity or highway safety issues. So in weighing up the material planning issues/policies and policy support to allow accommodation for gypsies and travellers in the countryside subject to the detail of any application, I take the view that in this instance an unrestricted permanent permission should be granted for two pitches in this location.

11.0 RECOMMENDATION –GRANT Subject to the following conditions:

CONDITIONS

- (1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;
- Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.
- (2) 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.
- (3) When the land ceases to be occupied 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.
- (4) Within three months of the date of the permission hereby granted 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' with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development

and a programme for the approved scheme's implementation and long term management shall be submitted to and approved 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) New native hedge / tree planting along the northeast and southeast boundary (as shown on the Site Layout Plan; received 11.07.2016);

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

- (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 this approval; and any trees, hedges 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 safeguard the character and appearance of the countryside.

- (6) No commercial activities shall take place on the land, including the storage of materials, without the prior written consent of the Local Planning Authority;

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

- (7) Within three months of the date of this decision notice, details of the proposed method of foul sewage treatment, along with details regarding the provision of portable water and waste disposal, must be submitted to and approved in writing by the Local Planning Authority.

The submitted details should include the size of individual cess pits and/or septic tanks and/or other treatment systems and should show the exact location on site and details as to where the system will discharge to. The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

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

- (8) The development hereby permitted shall be carried out in accordance with site location plan and site layout plan received 11.06.2016 and proposed elevation plan received on 2.08.2016.

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

INFORMATIVES

- (1) 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 woodland 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.

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 acceptable as submitted and no further assistance was required.

The application was approved in a timely manner.

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.