

**REPORT SUMMARY**  
**9 November 2017**

<b>REFERENCE NO - 16/505932/FULL</b>		
<b>APPLICATION PROPOSAL:</b> Change of use of land to use as a residential caravan site for 2 Gypsy families each with 2 caravans of which no more than one would be a static mobile home, together with erection of two amenity buildings, laying of hardstanding and formation of new access.		
<b>ADDRESS:</b> Land Rear of Chart View, off Chart Hill Road, Chart Sutton, Kent ME17 3EX		
<b>RECOMMENDATION:</b> Grant permanent permission subject to conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The proposed change of use of the land, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000), the emerging policies within the Final Draft Maidstone Local Plan and the provisions of the NPPF and there are no overriding material planning considerations justifying a refusal of permission.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> The recommendation is contrary to the views of Chart Sutton Parish Council and the Parish Council has requested that the application be determined by Committee.		
<b>WARD</b> Boughton Monchelsea and Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Chart Sutton Parish Council	<b>APPLICANT –</b> Mr Paul Webb <b>AGENT –</b> Phillip Brown Associates
<b>DECISION DUE DATE</b> (Extended) 16.10.2017.	<b>PUBLICITY EXPIRY DATE</b> 22/08/2016	<b>OFFICER SITE VISIT DATE</b> 14/07/2017

**MAIN REPORT**

**1.0 BACKGROUND**

- 1.1 At Planning Committee on 28.09.2017 the application was deferred until the expiry of the additional publicity set out in the urgent update report. The original report and urgent update is attached to this report.
- 1.2 Members will recall that the application was amended so that the access lane running parallel to the southern boundary of the site could be included within the ‘red-line’ boundary of the application site. Certificate D was signed and the application was advertised in the local press as the applicant could not identify the owners of the site. The publicity period has now expired.
- 1.3 Members will be aware that The Local Plan 2016 was adopted on the 25<sup>th</sup> October superseding The Maidstone Borough Local Plan 2000. For the purposes of this application, the Development Plan comprises the Local Plan 2016 and reference to the Local Plan 2000 and Policies ENV6, ENV28, ENV34 as contained in the original Report to Planning Committee should therefore be set aside.

**2.0 REPRESENTATIONS**

- 2.1 Further representations have been received from local residents, and two planning consultants on behalf of local residents. The issues raised can be summarised as follows:
  - The status of the access lane - neighbours have claimed that it is private but are unable to establish title. They are in the process of lodging a claim for adverse possession;

- The heritage value of the hedgerow - an objector has submitted that on the basis of historic maps the hedgerow should be considered a 'heritage asset' - Planning Policies SP18 (The Historic Environment) and DM4 (Development Affecting Non-Designated and Designated Heritage Assets) are relevant;
- The potential for the hedgerow having ecological value – due to its 'age';
- There is no existing access - a gate within the hedgerow is not evidence of an access;
- There is no need for additional G&T sites as the 187 pitch allocation within The Plan is for the period until 2031, and the number of sites that have been delivered are sufficient for the current stage of The Plan.

### **3.0 OFFICER RESPONSE**

- 3.1 In addition to the assessment in the main report the following responses are provided to the further consultation responses that have been received.

#### The status of the access lane

- 3.2 Whether or not the lane is private or public, is immaterial for planning purposes. The applicant has complied with the provisions of the Act by issuing Certificate 'D'. If the status is subsequently proven to be private, access would be a civil matter to be negotiated between the relevant parties.

#### The heritage value of the hedgerow

- 3.3 While it is possible for a hedgerow to contribute to the setting of a heritage asset (such as a listed building) or to the heritage significance of an area, this does not mean that hedgerows are a heritage asset in its own right. The only determining factor is whether a hedgerow is 'important' (as set down within the terms of The Hedgerow Regulations 1997) and it falls to the LPA to determine whether in the context of this separate legislation the hedgerow is 'important'.
- 3.4 For a hedgerow to be considered 'important' it must: mark a boundary between pre 1850 Parishes; or Mark an archaeological feature of a scheduled ancient monument or one noted on the Historic Environment Record (ie a listed building); or mark the boundary of a pre-1600 estate or manor, or field system pre dating the Enclosure Acts.
- 3.5 It has been maintained that because the field boundary is shown on an 1842 Tithe Map it must pre date the Enclosure acts. However no Enclosure Award evidence has been submitted. Consequently the Tithe map copy submitted by the objectors is not evidence of pre enclosure status. This can only be established by referral to the relevant enclosure award which may in turn also establish the status of the lane.
- 3.6 Furthermore, whether or not a hedgerow is 'important' does not preclude its removal in whole or in part. It means only that regard must be given to its 'importance'. While it is appreciated that hedgerows, like trees, can make an important contribution to the character of an area and may be historically important, there is as yet no evidence that this hedgerow has such significance. It should be remembered that there is no mechanism to prevent the lawful seasonal 'cutting back' of hedgerows whether 'important' or not.
- 3.7 Should it be established that the hedgerow is indeed 'important', given its context as marking no more than the boundary of a minor country lane that is of itself not historically important, the proposal to remove a section of hedgerow for access purposes is considered acceptable. Heritage Policies SP18 and DM4 are consequently considered not material in this context.

### Ecology

- 3.8 Although the hedgerow has been surveyed by a third party on behalf of objectors, the plant species identified in the hedgerow are common native species and no evidence of endangered or protected flora or fauna has been found.
- 3.9 There is no legislation in place to prevent seasonal cutting back of hedges providing there is no adverse impact on nesting birds (this being subject to separate legislation). Consequently it is considered that the greater extent of replacement native species hedging that is proposed, far in excess of that to be removed, would amply compensate for the loss of existing hedgerow in terms of biodiversity provision.
- 3.10 While it is appreciated that Hedgerows, like trees, can contribute significantly to biodiversity, it is considered that in the ecological potential of the hedgerow is insufficient to warrant refusal of permission. All parties are agreed that the field in isolation holds little biodiversity interest. In instances where preservation of hedge root-balls may be desirable, this can be achieved through transplanting. Such measures are considered unnecessary in this instance. However if members are minded, this can be subject to a planning condition.

### Access to the site:

- 3.11 The field is currently accessed via Chart View to the north-west. An original access to the land directly off the (Elderdon) Lane was absorbed into the adjoining Gypsy and Traveller site at Old Oak Paddocks and in deference to the objectors it must be conceded that it would be unusual for there to be two such gates so close together serving the same field enclosure. The objector's have asserted that there is no evidence of gateposts relating to the overgrown '5- bar gate' within the hedgerow. The Committee Report references this gate but does not draw any conclusions from it. Whether or not there was an access at this point must therefore remain a matter of conjecture. This does not have any impact on the overall conclusions.

### Need for Sites:

- 3.12 The proposal relates to a speculative, 'windfall' site. Such sites form an intrinsic element to the delivery of unidentified Gypsy and Traveller sites in accordance with the council's GTAA.

### Other Matters:

- 3.13 Although much has been written regarding the impact that the development would have on the character of the countryside, it is considered that such matters have been adequately addressed within the original report to committee.

## **4.0 CONCLUSION**

- 4.1 Consideration has been given to all representations received pursuant to planning committee on 28.09.2017. Notwithstanding such representations, the recommendation remains to grant planning permission.
- 4.2 Although this site will have some visual impact on the character and appearance of the rural area, policy allows that subject to strict control and in order to satisfy the Borough's responsibility to satisfactorily accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, Gypsy sites can be acceptable in the countryside. In this instance the development would be largely screened from certain public views and landscaping would mitigate views from the PROW. As a result the impact would be acceptable.
- 4.3 A grant of planning permission would assist in meeting the Council's unmet need for Gypsy and Traveller accommodation in the Borough and would comply with the Development Plan (Maidstone Borough-Wide Local Plan 2000), with emerging policies

within the Draft Maidstone Local Plan and with National Planning Guidance. Material circumstances indicate that subject to imposition of conditions full permanent (non-personal) planning permission should be granted.

## **5.0 RECOMMENDATION**

**GRANT FULL PERMANENT PERMISSION** 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. No more than four 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) shall be stationed on the site at any time.

Reason: To accord with the terms of the application and to safeguard the amenity, character and appearance of the area.

3. 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; permitted and an exception has been made to provide accommodation solely for Gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

Reason: The site is in the countryside where the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

4. No external lighting shall be erected on the site at any time unless previously agreed in writing.

Reason: To safeguard the rural character and appearance of this part of the Area of Outstanding Natural Beauty and to prevent light pollution.

5. No commercial activities shall take place on the land, including the outdoor storage of materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of this part of the Area of Outstanding Natural Beauty.

6. Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: To prevent overdevelopment of the site and to safeguard the rural character and appearance of this part of the Area of Outstanding Natural Beauty.

7. No development shall take place until details of the proposed method of foul sewage treatment for the development hereby approved has been submitted to and approved

in writing by the Local Planning Authority. The approved means of foul sewage disposal shall be implemented prior to occupation of the site and thereafter maintained in accordance with the approved details.

Reason: In order to ensure a satisfactory standard of development and prevent groundwater contamination.

8. The development shall not commence until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting specification, a programme of implementation and a [5] year management plan. The landscape scheme shall specifically address the need to provide:

- Retention of the existing hedge along the south boundary of the site apart from that section required to be removed for the approved access.
- A new double staggered mixed native hedge and trees along the west and north boundaries of the site on the outside of any boundary treatments.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following commencement of development, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

10. The development shall not commence until details of all boundary treatments to include the site entrance shall be submitted to and approved by the Local Planning Authority prior to occupation of the site. The boundary treatment shall allow for establishment of landscaping and shall thereafter be maintained for all time.

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

11. The development shall not commence until details of all hard landscaping to include hard-standings shall be submitted to and approved by the Local Planning Authority prior to that stage of the development. Surfacing elements shall be permeable to enable surface water to percolate directly to the ground below and shall be retained as such thereafter.

Reason: To minimise flooding of neighbouring land and the highway and in the interests of sustainable drainage.

12. The development hereby permitted shall be carried out in accordance with the following approved plans:

OS Location Plan 1:1250  
Block (Layout) Plan 1:500  
Utility Rooms Plans and Elevations 1:100

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

Case Officer: Jeff Sadler

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