

<b>REFERENCE NO - 18/501342/FULL</b>					
<b>APPLICATION PROPOSAL</b>					
RETROSPECTIVE APPLICATION SEEKING TO VARY CONDITIONS 2 AND 3 APPENDED TO PLANNING PERMISSION 15/507291/FULL TO ENABLE OCCUPATION OF THE SITE BY ANY GYPSY AND TRAVELLER FAMILY.					
<b>ADDRESS</b> Meadow View Marden Road Staplehurst Tonbridge Kent TN12 0JG					
<b>RECOMMENDATION – Grant Planning permission subject to planning conditions</b>					
-The site occupants meet the definition of gypsies and travellers.					
-The use of the site for Gypsy and Traveller (G&T) purposes on a permanent basis by any G&T occupant will not result in material harm to the character and setting of the countryside or the outlook or amenity of nearby dwellings.					
<b>REASON FOR REFERRAL TO COMMITTEE</b>					
Recommendation contrary to the views of Staplehurst Parish Council					
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst		<b>APPLICANT</b> Mr Jason Osborn	<b>AGENT</b> BFGSC	
<b>DECISION DUE DATE</b> 07/05/18	<b>PUBLICITY DATE</b> 10/05/18	<b>EXPIRY</b>	<b>OFFICER DATE</b> 12/04/18	<b>SITE</b>	<b>VISIT DATE</b>

**MAIN REPORT**

**1.0 SITE DESCRIPTION**

- 1.1 The application site is located off the north-eastern side of Marden Road. The site is broadly rectangular in shape with a width of approximately 45 metres and extending back from the Marden Road to a depth of approximately 140m.
- 1.2 The planning permission granted under ref: 15/507291 showed 4 mobile homes stationed in the northern eastern two thirds of the site with an undeveloped paddock over 50 metres in depth separating the mobile home plots from the site frontage. Only the two furthestmost mobile homes have been stationed on site with the two plots closest to Marden Road currently vacant.
- 1.3 Abutting the application site to the west is another Gypsy and Traveller development which again is set back some distance and separated from the site frontage by a large paddock.
- 1.4 The site lies in open countryside over 800 metres to the west of Staplehurst.

**2.0 RELEVANT PLANNING HISTORY** for application site and adjoining land

- 2.1 **17/503063:** Variation of conditions 2 and 3 appended to application 15/507291/FULL (Retrospective application for the provision of an

additional mobile home and the re-location of two mobile homes for extended gypsy families residential use). - to allow the site to be occupied by any Gypsy/Traveller family – REFUSED 16<sup>th</sup> January 2018 on the following grounds:

*"Insufficient evidence was submitted to demonstrate that the occupants of the site met the planning definition of Gypsies and Travellers. As such the special circumstances applying to gypsy and traveller development did not apply. Continued use of the site for G&T development therefore represented unjustified development harmful to the character and setting of the countryside".*

- 2.2 **15/507291:** Retrospective application for the provision of an additional mobile home and the re-location of two mobile homes for extended gypsy families residential use – Approved 09/08/16
- 2.3 **13/0866** - Retrospective application for new access, driveway and gates – Approved date?
- 2.4 **11/1118:** Change of use of land for the stationing of an additional 4 mobile homes for a gypsy family –A- 21/09/11 subject to occupation restriction– Approved 21/09/11.
- 2.5 **10/0226:** Change of use of land to allow the relocation of one existing mobile home for residential use with associated works including hardstanding and fencing –Approved 29/6/10 subject to occupancy restriction.
- 2.6 The above application also fell within the site areas of application refs: 15/507291 and 17/502732.
- 2.7 The following application relates to Whiteacres site. This site adjoins the current application site to the north west and will be displayed at the meeting.
- 2.8 **17/502732/FULL:** The placement of one additional static mobile home and touring pitch with associated parking – A- 18/8/17 subject to conditions enabling unfettered use for G&T development and no more than 4 static and 4 tourers to be on site.

### **3.0 PROPOSAL**

- 3.1 The relevant conditions cover the following:

*Condition 2:*

*The use of the two plots (Plots 2 and 3 shown on the approved site layout plan (received 04.09.15)) hereby permitted to the south-west of the existing mobile home plot (Plot 1) shall be carried on only by Mr Jason Osborn's two children, their immediate family and their dependants;*

*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 and to meet the applicant's specific requirements.*

*Condition 3:*

*The use of the additional mobile home on Plot 1 (as shown on the approved site layout plan (received 04.09.15)) hereby permitted to the north-east of the existing mobile home shall be carried on only by Mr Jason Osborn and members of his immediate family and their dependents;*

*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.*

3.2 The applicant wishes the conditions set aside in favour of the following condition

*"The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.*

*Reason: To reflect the special circumstances of the application."*

3.3 The site is now occupied by different persons from that specified in conditions 2 and 3 above and planning permission is required to accommodate this change in occupation. The following has been submitted in support of the application:

- The current occupants are part of the Irish Traveller community and are a well known family and related in one way or another to most of the larger Irish Traveller families that live across Kent, the UK and Ireland.
- The current site occupants are part of a large family and not all family members who may wish or need to reside on the site can be detailed in this statement.
- The conditions are a restriction on the use of the site and as such it could be said to be inappropriate while if the named consent remains it will inevitably lead to repeated requests for changes to the specified names for additions when children come of age etc, people marry into the family with a different surname or families within the site wished to exchange plots.
- The need for repeated applications would impose an unnecessary cost on site residents while infringing their human rights.
- Such conditions are not supported by NPTS Policy for Gypsies and Travellers.
- Many of the planning permissions for *Gypsies and Travellers* sites in Maidstone do not include a condition that requires the residents of the pitches to be named or approved by the LPA.

### **Personal Circumstances**

- The current and proposed site occupants are all members of the Gypsy and Traveller community, and have Gypsy Status for planning purposes.
- important this large extended family and dependants have a stable place to live and varying these conditions as proposed would permit this.
- Never been a challenge to the Gypsy status of the family, and there is no reason to believe this will change as the family have only ever lived on Gypsy sites, and maintain a Gypsy life style (culture, work etc)

#### 3.4 **Gypsy status:** The following information has been submitted:

- 4 site occupants are member of an extended Irish Traveller (Pavee family).
- Many members of the family live in on Gypsy sites in and around Kent.
- Family head grew up on a Gypsy site, and his parents live on a Gypsy site, naturally he has a cultural bias for living on Gypsy Traveller sites.
- He speaks the Gammon languages to a standard level for the UK Pavee community.
- The different family members often travel together as a unit, otherwise with friends.
- The family are principally involved in small building works etc and they travel with the work and to find the work.
- Wherever possible every effort is made to stay on existing sites with friends and family and often when the family are away from Kent (the last 5 years or so) they have worked in London, Coventry Bulkington (Warwickshire) and Cardiff where they can stop on friends places, or sites.
- If staying with friends and family is not possible, then a degree of improvisation may be needed as transit sites are few and far between.
- The family have been forced to stop by the roadside on occasion in and around Birmingham, Norwich, Newcastle, Wolverhampton and as far south as Exeter.
- A summary of the horse fairs attended in recent years are provided on the next page of this report where the applicants trade in horses and network.
- The family currently own 6 horses though this varies.
- These fairs need to be considered together with the fact that the family also continues to travel for work for a significant part of the year, individually or collectively with other members of the family.
- Events like Epsom Derby have had a dedicated stopping place for the Gypsy Traveller community for many years.
- Not possible to attend all the fairs listed every year, because occasionally dates clash or there are various other reasons.
- Some of the fairs last for a number of days with people spending up to a week at Appleby for instance (or a number of days at other fairs).
- Also travelling to and from fairs can be a good opportunity to trade, and pick up work and so stopping off along the way is quite common.
- Often families will spend two or more days travelling to fairs in advance.
- The applicants also travel to attend cultural events, such as horse drives, and family events throughout the year, to different sites and to various locations across the UK for networking and trading.

Table 1: Summary of the horse fairs attended for trade in horses and network.

<b>MONTH</b>	<b>EVENTS Attended</b>
<b>January</b>	Peterborough Show Horse Fair,
	Hotpots Fair Sawmill Pub, Near Nottingham
<b>March</b>	James Walker Fair, Good Neighbours Pub, Leicester LE3 9PW
	St Patrick's Day Fair, Dartford, Kent
<b>April</b>	Merton Show (weekend), Faversham Showground
	Kenilworth Fair CV8 2LP
<b>May</b>	April 13th - DICK SMITH SHOW DAY. Wombwell, near Barnsley
	Stow Horse Fair
<b>June</b>	Scottish King of the Road
	Wickham Horse Fair
<b>July</b>	Appleby Beginning of June
	Cambridge Midsummer Fair
<b>August</b>	Jim Walkers first Thursday to Monday, Leicester
	Jimmy smith's New Forest Drive
	Kenilworth Horse Fair CV8 2LP
	Hilden Horse Fair, Headcorn, Kent
	Langley Fair, Slough Bucks.
	Kent Horse Fair, Staplehurst
	The Fresh Telford Horse Fair
	Coopers New Forest Drive
	Priddy Fair, Somerset
	Runsfold Fair
	Lee Gap Fair
	Horsemonden Horse fair, Kent

#### **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF):  
 National Planning Practice Guidance (NPPG):  
 Development Plan: SS1, SP17, DM15, DM30  
 Planning Policy for Traveller Sites (PPTS)  
 Staplehurst Neighbourhood Plan

#### **5.0 LOCAL REPRESENTATIONS**

5.1 In response to neighbour consultations 3 objections were received which are summarised below:

- This application would require encroachment of the front grass buffer zone and would locate to the east of their site, which would adjoin Clara which is not indicated on the application map.
- Do not doubt the gypsy credentials of the applicants Saunders family or that they are involved in building works which in turn could require the parking of works vehicles at the site.
- Contend the extra caravans will also bring more people, more vehicles, more noise, eco disturbance, drainage needs and intrusion to the rural environment.
- Proposal could result in a much wider development of a very small and already intensive site.

## 6.0 CONSULTATIONS

### 6.1 Staplehurst PC: Object on the following grounds:

- Have already expressed opposition to the subdivision of the site and maintain this position.
- Opposed to allowing the site to be used by any gypsy/traveller family and that works impacted adversely on neighbouring property, notably Clara, and that the works were now more visible and poorly landscaped.
- Site not allocated for gypsy and traveller occupation in the Local Plan

### 6.2 Kent Highways: No objection

## 7.0 APPRAISAL

7.1 The proposal first has to be 'screened' to assess whether it should have been accompanied by an EIA to meet the requirements The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As the site does not lie in an AONB while not constituting Schedule 2 development there is no requirement for an EIA. It should be stressed this is purely a technical assessment which has no bearing on normal planning considerations relating to the development which are set out below.

7.2 As a point of clarification this application only seeks a variation of conditions 2 and 3 appended to planning permission ref: 15/507291 relating to site occupancy and whether is appropriate to permit occupation by any G&T family. The principle of the use of this site for G&T purposes does not fall to be considered.

7.2 Apart from the additional information relating to the current site occupants G&T status this is an identical application to that refused under ref: 17/503063. A copy of the report for application 17/503063 is attached at **Appendix 1**.

7.3 The report attached as **Appendix 1** makes clear that had the G&T status of the current site occupants been established the recommendation to the Planning Committee would have been that planning permission be granted for the permanent use of this site for use by any person having G&T status.

7.4 Consideration of the current application therefore rests solely on whether the additional information submitted regarding the current site occupants G&T status is sufficient to address the previous reason for refusal.

### **Gypsy Status**

7.5 National planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PPTS). Revised guidance is now in force with the planning definition of 'gypsy & 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."*

- 7.6 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.
- 7.7 The submitted information states there are 4 adults of the same family currently/proposing to occupy the site. That they all pursue a nomadic lifestyle in the pursuit of building works and attend a number of horse fairs. This information lacks detail but it must be taken into account that gypsy and travellers by their very nature, live a footloose and unregulated lifestyle.
- 7.8 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the site occupants have attended/will attend. However G&T lifestyles would appear to make securing such details problematic. As such, unless the Council is in possession of evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this, such claims must be taken at face value. To go beyond this could be considered unreasonable and potentially discriminatory.
- 7.9 As such it is considered that based on the submitted details the occupants of the site, on the balance of probability, have demonstrated they are gypsies and travellers that have led/ will continue to lead a nomadic lifestyle falling within the planning definition of gypsies and travellers.

## **CONCLUSIONS**

- 8.1 It is considered the site occupants have demonstrated their G&T status.

In addition the report attached as **Appendix 1** makes the following key points:

- The planning permission granted for this site under ref: 15/507291 was made personal on the grounds that this was an area where the stationing of caravans/mobile homes was not normally permitted. However since this planning permission was granted, permanent planning permission has been granted on the adjoining site to the west for the placement of one additional static mobile home subject to, amongst other things, to conditions enabling unfettered use for G&T development and that no more than 4 static and 4 tourers to be placed on site (under ref: 17/502732)
- There are long distance views from Marden Road to the two caravans set

at the back of the site while the caravans permitted for plots 2 and 3 will also be visible. However the caravans on plots 2 and 3 will be separated from the road by a paddock and subject to additional native species landscaping along the line of an existing post and rail fence it is considered the visual impact of the development permitted under ref:15/507291 is acceptable and that no cumulative harm is identified when taking into account this development and that allowed on the adjoining site.

- the visual impact of the development is acceptable and satisfies the criteria of policy DM15 as an acceptable 'windfall' G&T site on an unrestricted basis.

8.2 It is therefore concluded that (a) given the existence of recently permitted permanent G&T development abutting the application site to the north west and (b) that the development, the subject of this application, is acceptable in its visual and landscape impacts while not giving rise to any unacceptable cumulative impacts, there are no grounds for objecting to the permanent use of this site by any person having G&T status.

#### **9.0 RECOMMENDATION – GRANT** Subject to the following conditions:

1. The site shall only be used as a caravan site for Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

2. No more than 8 caravans, (of which no more than 4 shall be statics) 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. In addition no caravans shall be stationed in the area shown cross hatched on the plan attached to this decision notice.

Reason: In the interests of the visual amenity.

3. No external lighting shall be placed on site unless details have been submitted to and approved in writing by 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.

4. No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use;

Reason: In the interests of amenity.

5. Within three months of the date of this decision the method of foul sewage treatment and potable water provision must be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval of the details and retained as such at all times thereafter. If the details are not (a)



submitted and (b) implemented within the stated periods the use of the site for gypsy and traveller purposes shall cease, the mobile homes, touring caravans any hardstandings and other related development be removed and the site restored to its previous condition.

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

6. Prior to the additional or relocated mobile homes hereby permitted being stationed on site, a scheme of landscaping/planting using native species, including the provision of hedging and tree planting along the whole south-western edge of plot 3 and from the south east corner of plot 3 in a south westerly direction up to the pond. (siting of planting shown on accompanying plan) shall be submitted to and approved in writing by the Local Planning Authority which shall include a programme for the approved scheme's implementation and the scheme's long term management. The landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: In the interests of visual amenity.

7. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the stationing of the additional or relocated mobile homes (whichever is sooner); 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 ensure a satisfactory setting and appearance to the development.

8. Prior to any of the additional or relocated mobile homes hereby permitted being stationed on the land, an ecological scoping survey of the site and surrounding ponds for the presence of Great Crested Newts shall have been submitted to and approved in writing by the Local Planning Authority. If required, the survey shall inform a detailed mitigation strategy for the carrying out of the development and an enhancement strategy; Any enhancement shall be in place in accordance with agreed timescales.

Reason: In the interests of biodiversity protection and enhancement.

9. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be erected in the area shown cross hatched on the plan attached to this decision notice. without the prior permission of the local planning authority.

Reason: In the interests of the visual amenity.

## **INFORMATIVES**

### (1) Foul sewage

The details submitted pursuant to the requirements of condition 5 of this planning permission 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).

### (2) Caravan site licence:

The applicant is advised that 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 the date of the planning permission. Failure to do so could result in action by the council under the Act as caravan sites cannot operate without a licence. General enquiries about caravan site licences can be emailed to [communityprotection@maidstone.gov.uk](mailto:communityprotection@maidstone.gov.uk) or by telephoning 01622 602202.

### (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 out without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

(4) This is a S73 application and as such the red line plan submitted with this application is not relevant to this application.

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.

## Location Plan



**Drawing No: LP-01**

**May 2017**

**Meadow View  
Marden Road  
Staplehurst  
Kent  
TN12 0JG**

00000 - SITING OF  
LANDSCAPING REQUIRED  
BY CONDITION 6.  
[Hatched Area] AREA TO WHICH  
CONDITIONS 2  
AND 9 APPLY

**Scale 1:1250 @ A4**

Prepared by: J. Jones, 31/05/2017



15/507291