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REPORT SUMMARY

REFERENCE No: 18/503831/FULL		
APPLICATION PROPOSAL: Change of use of the land for the stationing of one static mobile home for Gypsy and Traveller accommodation in connection with the existing adjacent site, and for the provision of a utility building and associated hard and soft landscaping.		
ADDRESS: Land West of The Barn Stilebridge Lane Linton Kent ME17 4DE		
RECOMMENDATION: APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed development complies with the policies of the Development Plan and there are no overriding material considerations to indicate a refusal of planning permission		
REASON FOR REFERRAL TO COMMITTEE: - The recommendation is contrary to the views expressed by Linton Parish Council		
WARD: Coxheath & Hunton	PARISH COUNCIL: Linton	APPLICANT: Mrs L. Penfold AGENT: SJM Planning Ltd
DECISION DUE DATE: 22/10/18	PUBLICITY EXPIRY DATE: 02/10/18	OFFICER SITE VISIT DATE: 02/08/18
RELEVANT PLANNING HISTORY:		

- 18/500750 - Stationing of 2 mobile homes for Gypsy accommodation and erection of day room – Refused for 2 reasons (11.04.18):
 1. *In the absence of relevant information regarding the Gypsy and Traveller status of one of the intended occupiers of the site, there is no justification for allowing this form of development which would be harmful to the rural character and appearance of the area.*
 2. *Proposal represents unjustified expansion of cluster of existing Gypsy and Traveller sites on Stilebridge Lane which would cumulatively erode openness of countryside and intensify concentration and associated adverse impact of build development. It would appear as a visually intrusive addition to this countryside location to the detriment of the amenities of the area.*
- 17/505881 - Stationing of 2 mobile homes for Gypsy and Traveller accommodation and erection of day room - Withdrawn
- MA/13/1748 - Change of use of land to mixed use of agriculture and caravan site for Gypsy and Traveller family (2 mobile homes) and erection of 2 amenity blocks – Approved (07.09.17)

1.0 SITE DESCRIPTION

1.01 For the purposes of the adopted Local Plan, the proposal site is located in the countryside, on the south-eastern side of Stilebridge Lane. The proposal site is located on the edge of an existing 'fan' of gypsy and traveller sites with varying planning history, with the majority of these sites benefiting from permanent (unrestricted) permissions. At the time of the site visit, no buildings or mobile homes were on the site.

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2.0 PROPOSAL

- 2.01 This proposal is for the change of use of the land for the stationing of a static mobile home and for the erection of a utility building, with associated hard and soft landscaping. The mobile home and utility building would be located along the north-eastern boundary, and it would be connected to the adjacent site by a pedestrian access through the shared boundary.
- 2.02 The site already benefits from vehicle access and it is set back and screened from the road by existing fencing. The utility building would be some 7.7m by 4.5m in footprint and with its hipped roof it would stand some 3.8m in height.
- 2.03 For clarification, the 2 mobile homes on the adjacent site are occupied as follows: In one mobile home there is Mr and Mrs Penfold (the applicants); Mrs Penfold's mother (who is dependent on Mrs Penfold); and one son. In the second mobile home, Mr and Mrs Penfold's other son lives with his wife and 2 young children. These 2 mobile homes benefit from permanent (unrestricted) permission.
- 2.04 The proposed mobile home would be occupied by Mr and Mrs Penfold's son that currently lives with them. This son now has a partner and they are expecting their first child.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Local Plan: SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30
National Planning Policy Framework (2018)
National Planning Practice Guidance
Planning Policy for Traveller Sites (2015)
Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)

4.0 LOCAL REPRESENTATIONS

- 4.01 **Local Residents:** No representations have been received.

5.0 CONSULTATIONS

- 5.01 **Linton Parish Council:** If minded to recommend approval, the application should be referred to Planning Committee;

"Insufficient justification for removal of farmland as it would remove openness of countryside, harming rural character & appearance of area. Application amounts to urban sprawl. Site would remove rural landscape barrier between other neighbouring plots of land that have buildings. This amounts to creation of development that would not be appropriate in countryside, contrary to policies SS1, SP17, DM1 and DM30 of Local Plan and the NPPF."

- 5.02 **Kent Highway Authority:** Raise no objection.

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5.03 **Landscape Officer:** Raises no objection to proposed landscaping scheme.

6.0 APPRAISAL

Main issues

- 6.01 The most relevant Local Plan policy is DM15, which allows for gypsy and traveller accommodation in the countryside provided certain criteria are met, with SP17 allowing development provided it does not result in harm to the character and appearance of the area.
- 6.02 Another key consideration in the determination of this application is Government Guidance set out in 'Planning Policy for Traveller Sites' (PPTS) as amended in August 2015. The guidance places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision (as opposed to local authority provision) and acknowledgement that sites are more likely to be found in rural areas. This is an exception to the principle of restraint in the countryside. Issues of need are dealt with below, but in terms of broad principle, Local Plan policies and central government guidance both permit gypsy and traveller sites to be located in the countryside as an exception to policies which otherwise seek to restrain development.
- 6.03 The site is approximately 2.5km to the south of the larger village of Boughton and whilst there would be some reliance on private motor vehicles to access local services and facilities, this is common of Gypsy and Traveller sites in rural locations. For these reasons, the site is considered to be reasonably located in respect of access to local services and facilities and would support the sustainability objectives of the NPPF.
- 6.04 In accordance with the relevant policies of the Maidstone Local Plan and central government guidance, the main issues for consideration are what the need and supply of gypsy sites are; whether the applicants qualify for gypsy status in planning terms; and the proposal's visual impact.

Need for gypsy sites

- 6.05 The Maidstone Local Plan is adopted and there are policies relating to site provision for Gypsies and Travellers. Local planning authorities also 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 to cover the period October 2011 to March 2031. The GTAA concluded the following need for pitches over the remaining Local Plan period:

*Oct 2011 – March 2016 - 105 pitches
Apr 2016 – March 2021 - 25 pitches
Apr 2021 – March 2026 - 27 pitches*

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Apr 2026 – March 2031 - 30 pitches

Total: Oct 2011 – March 2031 = 187 pitches

6.06 This, is the best current evidence of need, and forms the evidence base to the Local Plan, although it should be acknowledged that the GTAA preceded the August 2015 publication of the revised PPTS, which redefines amongst other things, status qualifications, and as a result the accuracy (albeit not substantially) of the GTAA figures. The target of 187 additional pitches is included in policy SS1 of the Maidstone Local Plan. The GTAA predates publication of the revised PPTS, which sought to redefine the definition of Gypsies and Travellers. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the adopted Local Plan.

Supply of gypsy sites

6.07 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.

6.08 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

- *131 permanent non-personal pitches*
- *25 permanent personal pitches*
- *4 temporary non personal pitches*
- *35 temporary personal pitches*

6.09 Therefore a net total of 156 permanent pitches have been granted since 1st October 2011. A further 31 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

6.10 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 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 and 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.

6.11 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. The Council's position is that it can demonstrate a 5.2 year supply of Gypsy and Traveller sites at the base date of 1st April 2018. As the Council considers itself to be in a position to demonstrate a 5 year supply, paragraph 27 of the PPTS would not apply in

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the determination of this application and the direction to positively consider the granting of a temporary consent does not apply.

Gypsy status

- 6.12 The Government revised the PPTS in August 2015, and the planning definition of 'gypsies & travellers' have been amended to exclude those who have ceased to travel permanently. The current 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 show-people 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 to travel temporarily), 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.

- 6.14 The 2 mobiles on the adjacent site (MA/13/1748) were approved on 7th September 2017. At this time, it was accepted that both sons of Mr and Mrs Penfold met the planning definition of 'gypsies & travellers'. Subsequent to this, even though 18/500750 was refused on 11th April 2018 in part because of Gypsy status, this related to a lack of information surrounding Mrs Penfold's mother. The status of Mrs Penfold's mother is not now for deliberation and is considered to be a dependent of Mrs Penfold. Under 18/500750, the Gypsy status of Mr and Mrs Penfold's son (who is intending to live in the additional mobile home) was again accepted. In the 6 months that have passed since this decision, the agent has confirmed that Mrs Penfold's son continues to travel across the country for work purposes (horse breeding and dealing) and on this basis, no objection continues to be raised to this proposal on Gypsy status grounds.

Visual impact

- 6.15 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 Local Plan policies SS1, SP17, DM15 and DM30; and the NPPF. Specifically, policy DM15 of the Local Plan allows for Gypsy accommodation in the countryside provided certain criteria are

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met. This includes allowing development that does not result in significant harm to the landscape and rural character of the area.

- 6.16 The proposed development would be set back more than 45m from Stilebridge Lane and is considered to be adequately screened from this road when approaching the site from either direction, given existing built and natural form in the vicinity. The proposal site is also more than 370m away from A229, and no public footpath would come within 160m of the site.
- 6.17 When compared to the previous application that was refused (under ref: 18/500750), the proposal is for 1 mobile home and not 2; the mobile home and utility building are now shown to be sited close to the shared boundary with the adjacent Gypsy site, instead of being sprawled across the whole site; the site is largely given over to soft landscaping, including a native hedge to be planted along the south-western boundary of the site; the utility building has been noticeably reduced in size; and the level of hardstanding has also been reduced.
- 6.18 The proposed mobile home and utility building would now be contained to the front of the site, grouped close to existing lawful development, retaining a sense of openness within the site, by keeping built form away from the south-western and rear boundaries. This layout and the proposed landscaping shown would retain a soft barrier to the wider countryside and would not therefore harmfully erode the openness of the countryside hereabouts. Details of any external lighting would also have to be submitted to the local planning authority for approval in the interests of amenity.
- 6.19 It is therefore considered that the amended proposal would not appear visually intrusive and would not result in adverse harm to the landscape and rural character of the area. When considered cumulatively with other existing lawful gypsy sites, for the reasons given it would also not have an adverse impact upon the character and appearance of the countryside hereabouts.

Other matters

- 6.20 The proposal does not raise any highway issues and the highway authority has not raised objection. Given the location and well-kept condition of the site (in Flood Zone 1), no objection is raised to this application in terms of flood risk, ecology and arboricultural grounds. Details of foul sewage and surface water drainage will be requested via an appropriate condition.
- 6.21 A residential use is not generally a noise generating use; and the nearest house would be a significant enough distance away from the proposal for it to not adversely impact upon their residential amenity. The development would also not have an adverse impact upon the amenity of the near-by gypsy sites; and given the spacious size of the site and its surroundings, the amenity of future occupiers would also not be adversely impacted upon. It

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is not considered that this proposal, when considered cumulatively with other lawful gypsy sites in the vicinity, would be of such scale and density that would result in it having an unacceptable impact upon the existing residential community.

- 6.22 The comments made by Linton Parish Council have been considered in the assessment of this application. It should also be noted that the proposal site is not Grade 1 or Grade 2 classified agricultural land; it is a piece of land that has not been used for agricultural purposes for some time; and given its awkward shape and siting wedged between a lawful Gypsy site and a parcel of land that appears to have horses kept on it, it is considered unlikely that the land would ever be appropriately farmed again.

7.0 CONCLUSION

- 7.01 There is Local Plan policy support to allow unallocated Gypsy sites in the countryside, provided that they do not result in significant harm to the character and appearance of the countryside. As set out in the main body of this report, this proposal is considered to not have an adverse impact upon the character and appearance of the countryside hereabouts, and it has overcome the previous reason for refusal. As such, the proposal is considered acceptable with regard to the relevant provisions of the Local Plan, the NPPF, and all other material considerations such as are relevant. A recommendation for a permanent, unrestricted permission is therefore made on this basis.

8.0 RECOMMENDATION – APPROVE subject to 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 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.

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 caravans or mobile home) shall be stationed on the site at any time;

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

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4. 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.

5. The development hereby approved shall be carried out in accordance with the boundary treatment details, as shown on drawing 2017-068v2-PropBlock, and maintained as such thereafter;

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

6. 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 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.

7. Prior to the first occupation of the development hereby approved, details of the methods of foul sewage and surface water disposal shall be submitted to and approved in writing by the local planning authority. These works shall be completed in accordance with the approved details before the first occupation of the caravan or land;

Reason: To ensure adequate sewage disposal arrangements.

8. No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the local planning authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

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

9. No commercial activities shall take place on the land, including the storage of materials, no vehicles over 3.5 tonnes shall be stationed, stored or parked on the site, and not more than 5 vehicles shall be stationed, stored or parked on the site at any one time;

Reason: To ensure a satisfactory appearance to the development and prevent an inappropriate use in the countryside.

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10. The development hereby permitted shall be carried out in accordance with the following approved plans: 2017-068v2-Location; 2017-068v2-DayRoom and 017-068v2-PropBlock received 25/09/18;

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

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

Case Officer Kathryn Altieri