

<b>REFERENCE NO - 18/501979/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective application to allow siting of four additional residential mobile homes on site.		
<b>ADDRESS</b> Seaview Farm South Street Road Stockbury Sittingbourne Kent ME9 7QS		
<b>RECOMMENDATION</b> Grant Planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.</li> <li>- The visual and landscape impacts are acceptable.</li> <li>- The development provides a valuable windfall addition to the stock of gypsy and traveller sites and will assist in meeting the need for gypsy and traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Topic Paper (2016) and policy SS1 of the local plan.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Stockbury Parish Council		
<b>WARD</b> North Downs	<b>PARISH/TOWN COUNCIL</b> Stockbury	<b>APPLICANT</b> Mrs Odette Butler <b>AGENT</b> n/a
<b>TARGET DECISION DATE</b> 30/07/18		<b>PUBLICITY EXPIRY DATE</b> 05/07/18

### Relevant Planning History

13/1841

Vary condition 1 of MA/06/0350 to allow an additional residential mobile home on site (making 2 mobile homes in total) for gypsy family use. Approved subject to conditions restricting site occupation to no more than two statics and one tourer and unrestricted use by any Gypsy and Traveller family.

Approved

Decision Date: 08.08.2017

12/0095

Retrospective application for the siting of two mobile homes and one touring caravan for gypsy/traveller occupation, fencing and hardsurfacing. Approved subject to conditions restricting site occupation to no more than two statics and one tourer

Approved

Decision Date: 19.04.2012

11/0610

An application for discharge of conditions relating to MA/10/1946 (Variation of condition 1 of permission MA/06/0350 to allow the siting of an additional touring caravan; and the construction of walls and gates around the site access; the laying of hardstanding and the erection of a small shed to form a utility building) being details of condition 2, brick sample of a Rochester Blend.

Approved

Decision Date: 13.05.2011

Variation of condition 1 of permission MA/06/0350 to allow the siting of an additional touring caravan; and the construction of walls and gates around the site access; the laying of hardstanding and the erection of a small shed to form a utility building

Approved

Decision Date: 01.04.2011

06/0350

Retrospective application for the continued use of land for the stationing of one mobile home for a gypsy family – approved subject amongst other things to conditions allowing occupation by any Gypsy and Traveller family, no more than 1 mobile home/caravan

Approved

Decision Date 07.06.2016

66/0379/MK2

The erection of a building for storage of agricultural implements and unsold produce.

Refused

Decision Date: 31.03.1967

65/0394/MK2

The use of land as a residential site for nineteen caravans.

Refused

Decision Date: 30.03.1966

64/0427/MK2

Outline application for a dwelling with access in connection with a small holding.

Refused

Decision Date: 26.02.1965

## **MAIN REPORT**

### **1. SITE DESCRIPTION**

- 1.1 The application site comprises an existing lawful Gypsy and Traveller site with planning permission for two statics and 1 tourer. The site is located in open countryside within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.2 There are two lawful caravans fronting the site while to the south east of these are 4 additional mobile homes which are the subject of this application. There is close boarded fence defining the south east site boundary beyond which is another gypsy and traveller plot falling within the red outline site area defining application 10/1946 and as such falls within part of a lawful gypsy and traveller site.
- 1.3 The site frontage has dense screening with further dense screening defining the south east and north west site boundaries.
- 1.4 Abutting the north east site boundary is the Flips Hole allocated gypsy and traveller site (policy GT1(13) ).

## 2. PROPOSAL

- 2.1 Retrospective planning permission is sought to retain 4 mobile homes with their associated amenity areas and service roads.
- 2.2 The following sets out the applicant's personal circumstances providing clarification on the occupants of the mobile homes gypsy and traveller status. Members are reminded that for Data Protection purposes information has to be anonymised.

- **Mobile home 1:** Occupied by two adults –both no longer living a nomadic lifestyle due to one having long health issues with care provided by the other occupant.
- **Mobile home 2:** Occupied by 1 adult – away all summer mainly in the west of England and Wales carrying out paving work. Collects and sells Christmas trees in December/Jan - also contracted for snow clearing work.
- **Mobile Home 3:** Occupied by one adult and child of primary school age. Does not currently pursue a nomadic lifestyle due to caring commitments.
- **Mobile Home 4:** Occupied by 1 adult – away all summer mainly in the west of England and Wales carrying out paving work. Collects and sells Christmas trees in December/Jan and also contracted for snow clearing work.

## 3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017: SP17, DM15, DM30  
Supplementary Planning Documents Planning Policy for Traveller Sites (PPTS) (2015)  
Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)

## 4. LOCAL REPRESENTATIONS

### Local Residents:

- 4.1 None received

## 5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### Stockbury PC

Objects to the proposal on the following grounds

- Retrospective planning application and the applicants have ignored planning law by developing the site without prior planning consents while there have been numerous previous retrospective planning applications for this site.
- The site, which was originally a field with one old barn on it, is over

- developed and the application is unclear about what is currently on the site.
- Supporting site plans are incorrect and should be reviewed to ensure that the total site is included in the site plan with all current buildings.
  - Concerned that there is not a coherent plan of the site showing all additional access points that have been created by the site owner in the last few months.
  - Site located outside of any settlement boundary and consider it is situated in an unsustainable location having poor access to services.
  - Erode the openness of the surrounding area and are an unjustified and unwelcome development in the rural setting.
  - The development is harmful to the local landscape character and the beauty of the AONB.

### **Kent Highways**

No comment.

## **6. APPRAISAL**

- 6.1 Before considering the planning merits of the development it first needs to be determined through a screening process whether the application should have been accompanied by an Environmental Impact Assessment (EIA). Though the site falls within an Area of Outstanding Natural Beauty the development is not of a scale or impact justifying an EIA. It should be stressed this is a technical assessment and has no bearing on the consideration of the planning merits of the development carried out below.

### **Main Issues**

- 6.2 The application site area relating to planning permission ref: 10/1946 includes the whole site area that is the subject of the current application under consideration. Application ref: 12/0095 granted planning permission for two mobile homes to be sited abutting the south east site boundary of the current application site.
- 6.3 As such planning permission exists for a total of 2 Gypsy and Traveller plots restricted to the north west part of the site. However the application site area granted planning permission under ref: 10/1946 also covers, the site, the subject of this application. As such though planning permission has been granted for two Gypsy and Traveller plots abutting the north west site boundary of the current application site the use of the whole site for Gypsy and Traveller purposes (including the current application site) has lawful use for Gypsy and Traveller purposes.
- 6.4 The key issues are therefore whether the occupants of the mobile homes meet the current Gypsy and Traveller definition and whether retention of the additional mobile homes on a lawful Gypsy and Traveller site results in material harm to the rural and landscape character of the wider area.

### **Principle of development**

- 6.5 The application site is located within the Kent Downs AONB in open countryside and consequently the development is assessed against local plan policies as follows.
- 6.6 Paragraph 172 of the NPPF states that great weight should be given to

conserving and enhancing AONB's which have the highest status of protection. Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted and in particular refers to the need to safeguard the landscape character and setting of the Kent Downs AONB.

- 6.7 Policy DM15 states that planning permission for Gypsy and Traveller development will be granted if it would not result in significant harm to the landscape and rural character of the area. The requirement remains that development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and also that wildlife considerations are taken into account.
- 6.8 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.9 There is also Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) amended in August 2016. 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.
- 6.10 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit Gypsy and Traveller sites to be located in the countryside as an exception to the general development restraint policies.

#### **Need for Gypsy Sites**

- 6.11 Local Authorities set their own target for the number of pitches to be provided in their areas in their Local Plans. The Council in partnership with Sevenoaks District Council commissioned 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

- 6.12 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 part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit those actual needs may

prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

- 6.13 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.

#### **Supply of Gypsy sites**

- 6.14 Since the 1st October 2011 (the base date of the GTAA) up until the 30<sup>th</sup> September 2018 the following permissions for pitches have been granted (net).

Permanent/non-personal – 132  
Permanent/personal - 25  
Temporary/non-personal - 4  
Temporary/personal – 35

- 6.16 Therefore a net total of 157 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 30 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 6.17 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 allocate specific sites 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.

- 6.18 The PPTS requires Local Plans to identify a supply of 5 years' worth of deliverable sites against the Plan's pitch target. At the base date of 1st April 2016 the Council could demonstrate a 5.6 year supply of Gypsy and Traveller sites. However the 5 year supply position is reviewed on the 1<sup>st</sup> April each year.

- 6.19 As of the 1<sup>st</sup> April 2018 the Council can demonstrate 5.2 years' worth of deliverable pitches at the 1<sup>st</sup> April 2018.

- 6.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting temporary consents. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

#### **Gypsy Status**

- 6.21 The planning definition of 'gypsies & travellers' as set out in the PPTS, has been amended to exclude those who have ceased to travel permanently. Annex 1 of the PPTS defines gypsies and travellers as: -

*"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."*

- 6.22 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 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.
- 6.23 Occupants of two mobile homes do not carry on nomadic lifestyle due to age and infirmity, the need to provide care along with childcare responsibilities. The two adults living in two mobile homes have provided limited information of their nomadic lifestyle.
- 6.24 Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance. As such it is considered that based on the submitted details the site occupants are gypsies and travellers that have led, will continue to lead or will in the future lead a nomadic lifestyle and therefore fall within the revised definition set out above.

**Landscape Impact:**

- 6.25 Mobile homes are generally considered to comprise visually intrusive development out of character in a countryside setting. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable in their visual impact. They are normally only permitted on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 6.26 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and, or place undue pressure on local infrastructure.
- 6.27 Policy DM15 specifically relating to Gypsy and Traveller development, states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape if an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.
- 6.28 The site is identified as falling within open countryside and the Kent Downs AONB. Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing AONB's which have the highest status of protection. Policy SP17 of the local plan states amongst other things that great weight should be given to the conservation and enhancement o the Kent Downs AONB and that development should not have a significant adverse impact on the settings of the Kent Downs AONB.

- 6.29 Policy DM30 also requires that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.
- 6.30 The site frontage onto South Street Road is already well screened by dense tree planting. The only break in this is the site access. The mobile homes, the subject of this application, are located between the two existing plots close to site frontage and the two mobile homes permitted under application ref: 12/0095 abutting the south east site boundary.
- 6.31 The site is well screened with dense woodland along its whole south west and north west site boundaries. The mobile homes are also situated between existing mobile homes on a site that already has planning permission for Gypsy and Traveller use.
- 6.32 It is therefore considered that this is an inward looking, self contained and well screened gypsy and traveller site. The 4 mobile homes are not perceptible from outside the site and as a consequence it is considered the development meet the visual requirements of policy DM15. The development will not result in material harm to the rural and landscape quality of the area contrary to the provisions of the NPPF or policies SP17 or DM30 of the local plan.

**Cumulative Impacts:**

- 6.33 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and or place undue pressure on local infrastructure. In addition policy DM15 of the Local plan states, amongst other things, that permission will be granted if a site would not harm the rural character and landscape of an area due to cumulative visual impacts.
- 6.34 Dealing first with the potential impact on the nearest settled community, given the modest number of persons involved in the development this would not be the case.
- 6.35 Regarding cumulative visual impacts the allocated Gypsy and Traveller site to the north east and the application site are both well screened. It is considered that neither their individual or cumulative impacts have any material landscape impact.

**Sustainability**

- 6.36 Gypsy and traveller sites are mainly located in the countryside and guidance acknowledges this. As such normal sustainability principles relating to siting and access to facilities do not apply.
- 6.37 Nevertheless policy DM15 states, amongst other things, that local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.
- 6.38 It is acknowledged the site occupies an isolated rural location remote from public transport and services. However this site is no more unsustainably sited when compared to existing Gypsy and Traveller development permitted on the same site and the adjoining allocated site. In the circumstances it is considered it would appear perverse to take exception to

this development on unsustainable siting grounds.

### **Amenity**

- 6.39 There are no nearby dwelling that would experience direct loss of outlook or amenity arising from the development. Landscape quality is public asset maintained in the wider public interest and harm to the wider landscape has been addressed above.

### **Highways**

- 6.40 Kent Highways has not commented due to the small nature of the proposal but given good sight lines to the access, low traffic generating potential of the use and limited traffic using South Street Road, no harm to the free flow of traffic or highway safety is identified.

### **Wildlife**

- 6.41 Though development should be used an opportunity to bring about wildlife improvements, the retrospective nature of the development means there is limited potential here.

### **Other matters**

- 6.42 Government Guidance states that planning applications submitted retrospectively is a material consideration that should be taken into account in determining such applications. However, guidance on how much weight this should be given is not clear. Furthermore the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such, when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

## **7.0 CONCLUSIONS:**

- 7.1 The key conclusions are considered to be as follows:
- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of gypsies and travellers contained within Government Guidance.
  - The visual and landscape impacts are acceptable.
  - It will provide a valuable windfall addition to the stock of G&T sites and assist in meeting the need for Gypsy and Traveller sites set out in the GTAA and policy SS1 of the local plan
- 7.2 In the circumstances it is considered the impact of the development is acceptable and planning permission should be granted as a consequence.

## **7. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. 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 .

2. No more than 5 caravans and 5 tourers, (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 unless otherwise agreed in writing with the Local Planning Authority. This number includes the existing plot fronting South Street Road falling within the application site.

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

3. Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been 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 night time rural environment and in in the interests of amenity and ecology.

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

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

5. 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 stationed on the land without the prior permission of the local planning authority.

Reason: In the interests of the visual amenity.

6. The development hereby approved shall only be carried out in accordance with drawing no: 6553/13.

Reason: In the interests of amenity.

Case Officer: Graham Parkinson