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| REFERENCE NO - 19/500200/FULL | | | |
| APPLICATION PROPOSAL Retrospective application for a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch. | | | |
| ADDRESS Little Paddocks Stilebridge Lane Linton Kent ME17 4DE | | | |
| RECOMMENDATION Grant Planning Permission subject to planning conditions | | | |
| SUMMARY OF REASONS FOR RECOMMENDATION <ul style="list-style-type: none"> - Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Travellers contained within Government Guidance. - Significant weight must be given to child welfare and the need to provide a stable background in the planning balance. - The visual, landscape and amenity impacts are acceptable. - The proposal will provide a valuable windfall addition to the stock of Gypsy and Traveller sites and assist in meeting the need for Gypsy and Traveller sites set out in the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) and policy SS1 of the local plan | | | |
| REASON FOR REFERRAL TO COMMITTEE Contrary to the views of Linton Parish Council as set out at paragraph 5.1 of this report. | | | |
| WARD Coxheath And Hunton | PARISH/TOWN Linton | COUNCIL | APPLICANT Mrs C McCann AGENT Murdoch Planning Ltd |
| TARGET DECISION DATE 01/04/19 | | PUBLICITY EXPIRY DATE 27/02/19 | |

Relevant Planning History

The following applications refer to land immediately abutting the northern and southern boundaries of the application site.

18/502028/FULL – (Land North Of Stilebridge Stableyard Stilebridge Lane) Change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access. This permission permits the permanent use of the site for Gypsy and Traveller accommodation. Granted 11.06.2018

14/506183/FULL - (Stilebridge Paddock, Stilebridge Lane) Stationing of 2 mobile homes, utility block, touring caravans and stables and open paddock area. This permission also permits the permanent use of the site for Gypsy and Traveller accommodation. Granted 11.12.2015.

Appeal & enforcement history (Application site, Little Paddocks)

An enforcement notice was issued on the 9 May 2017 in respect of the unauthorised siting of two caravans and one container for residential use, and the laying of hard surfacing. The enforcement notice was subsequently withdrawn on the 6 June 2017 on the basis that the applicant would submit a retrospective planning application within 6 weeks.

As no planning application was forthcoming an enforcement notice was reissued on the 19 October 2018. The applicant has submitted an appeal against that enforcement notice and the council are currently awaiting an appeal start date from the Planning Inspectorate.

In November 2018 an officer visit found all buildings removed from the site. The current planning application for retrospective permission was submitted in February 2019. The application was described on the application form as a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch. The submitted plans show two touring caravans and an 'utility block' which the applicant has recently confirmed is a washroom and toilet in a portacabin type building.

1. SITE DESCRIPTION:

- 1.1 The site comprises a long narrow area surfaced with hardcore enclosed by closeboarded fencing with access onto Stilebridge Lane. It is currently occupied by two touring caravans the closest of which is set back by 90 metres from Stilebridge Lane.
- 1.2 Abutting the site to the north east (14/506183/FULL) and to the south west (18/502028/FULL) are existing lawful Gypsy and Traveller sites.
- 1.3 In a wider context the site lies within an isolated grouping of Gypsy and Traveller development falling within open countryside.

2. PROPOSAL

- 2.1 The application was described on the application form by the applicant as a change of use of land to be used as a gypsy/traveller caravan site consisting of one pitch.
- 2.2 The submitted plans show two touring caravans and an 'utility block' which the applicant has recently confirmed is a washroom and toilet in a portacabin type building.
- 2.2 Landscaping details have been submitted showing retention/extension of a native species hedgerow running the full length of the south west site boundary and a proposed native species hedgerow running along much of the length of the north east site boundary with native species trees sited abutting this hedgerow.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 SS1, SP17, DM15 DM30
Supplementary Planning Documents Planning Policy for Traveller Sites (PPTS)

4. LOCAL REPRESENTATIONS

Local residents:

- 4.1 No representations received from local residents.

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)

- 5.1 Linton Parish Council objects to the proposal on the following summarised grounds:
 - Application should be refused for the same reasons as application ref:17/505888
 - Application retrospective and allowing the development to remain will harm the rural character of the area.
 - Not aware of an updated case of need put forward by the applicant supporting the proposal.

Officer comment:

- 5.2 Application 17/505888 relates to land to the south of the current application site (Land North East Stilebridge Stableyard, Stilebridge Lane). The application refused planning permission on the 24 January 2018 related to a much larger proposal on a

larger site for 5 pitches for Gypsy/Traveller accommodation. The stationing of 6 static mobiles and 5 day rooms with associated hard and soft landscaping.

- 5.3 As the application did not include evidence that the proposal was for gypsy and traveller accommodation, this application was not considered against the exceptions within policy DM15 and was refused on the ground of landscape harm and the unsustainable location.
- 5.4 The current application is materially different to this earlier refusal for several reasons. Whilst it is limited, gypsy and traveller evidence has been submitted with the current application and the current proposal is on a substantially smaller site , and for a smaller number of caravans. On this basis the grounds for refusal of this nearby site do not apply to the current application site.

6. APPRAISAL

Main issues

- 6.1 The main issues in relation to this application are considered to be
- The principle of development;
 - Need for gypsy sites;
 - 5 year supply;
 - Gypsy and traveller status;
 - Landscape impact;
 - Cumulative impacts;
 - Sustainability;
 - Amenity;
 - Wildlife;
 - Human rights and equality

Principle of development

- 6.3 The application site is located in open countryside and with the proposal including gypsy and traveller accommodation the development is subject to the following local plan policies.
- 6.4 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.
- 6.5 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. In addition 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.
- 6.6 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. The policy states 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.
- 6.7 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.
- 6.8 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

- 6.9 The Gypsy and Traveller and Travelling Showpeople Accommodation Assessment: (GTAA) Maidstone (January 2012) provides the evidence of the need for Gypsy and Traveller pitches in the borough for the Local Plan period to 2031. This assessment identified a need for a total 187 additional permanent pitches in the borough 2011-31.
- 6.10 This assessment was undertaken prior to the change to the definition of Gypsy and Travellers in the Planning Policy for Traveller sites (PPTS) in August 2015 to exclude those who have permanently ceased travelling. At the Local Plan Examination the Inspector concluded the changed definition would result in relatively little change to the needs figure and confirmed it provided an adequate evidential base for the local plan. A new GTAA will be prepared to support the Local Plan Review. Work on the new the GTAA is currently programmed to commence in September 2019 and be completed by March 2020.
- 6.11 The local plan provides for the 187 pitch requirement through;
- The permanent planning consents which have already granted
 - Specific site allocations in Policy GT1(1)-(16) for a total of 41 pitches (some of these have now been granted planning permission)
 - Application of Policy DM15 for applications on windfall sites.
- 6.12 The Local Inspector noted that the Local Plan Review will be the time to make further site allocations should windfall sites not come forward as expected.
- 6.13 In the period between 1st October 2011 and the 31st March 2019, 173 pitches have been granted 'permanent' planning permission (148+25). These contribute to the local plan target of 187 pitches.
- 6.14 The types of permission including temporary permissions are as follows:
Permanent consent – 148 pitches
Permanent consent with personal condition – 25
Consents with temporary condition- 4
Consent with temporary/personal conditions- 37

5 -year supply

- 6.15 Paragraph 27 of the PPTS advises that where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
- 6.16 The Council can demonstrate a 7.7 years supply of pitches at 1st April 2019 and as a result paragraph 27 of the PPTS is not relevant in this case.

Gypsy and Traveller Status

- 6.17 The following information was submitted to address this. Members are reminded Data Protection legislation requires this information to be anonymised.
- The site is occupied as one household by persons who are both Annex 1 Travellers.
 - The site is occupied by two working age adults (husband and wife) and two pre-school age children.
 - One working age adult has their travelling restricted to fulfil childcare obligations.
 - The other working age adult is self employed as a landscaper which includes ground and block paving works and travels for up to 6 months each year in

pursuit of such employment and is away from the site for weeks at a time in search of, and undertaking work.

- 6.18 As mentioned at paragraph 6.10, the planning definition of 'Gypsy and Travellers as set out in the PPTS (Planning Policy for Traveller sites), 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."

- 6.19 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 dependent's health or education needs or old age.
- 6.20 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.
- 6.21 The information provided on the Planning Policy for Traveller sites status of the site occupants is limited. However unless the Council is in possession of evidence refuting their occupants claims of an existing nomadic working lifestyle, intention to continue this lifestyle or that they are no longer able to continue the lifestyle due to age or infirmity, such claims must be taken at face value. To go beyond this may expose the Council to claims of being discriminatory in its dealings with Gypsy and Traveller applications.
- 6.22 As such it is considered that based on the submitted details the site occupants are Gypsies and Travellers that have led, and will continue to lead a nomadic lifestyle in pursuit of work and therefore fall within the revised Gypsies and Traveller definition set out above.

Landscape Impact:

- 6.23 Mobile homes are generally considered visually intrusive development that are 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. As such they are normally only permitted where they are screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 6.24 Guidance in the PPTS (Planning Policy for Traveller sites) states that Local Planning Authorities should strictly limit new Gypsy and 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.
- 6.25 Policy SP17 states amongst other things, that development in the countryside will not be permitted if it will result in harm to the character and appearance of the area. Policy DM15 specifically relating to Gypsy and Traveller development, states, amongst other things, that permission will be granted if a site would not harm the rural character and landscape if an area due to cumulative visual impacts and is well screened by existing landscape features. Policy DM30 also requires that account should be taken of the Maidstone Borough Landscape Character Guidelines SPD.

- 6.26 The Maidstone Landscape Character Assessment (amended July 2013) shows the site falling with the Beult Valley, an area identified as having the following landscape characteristics:
- Low lying broad shallow valley of the meandering River Beult and Hammer Stream within the Low Weald
 - Many ponds and watercourses with important ecological interest
 - Species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed
 - Mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture
 - Sparsely scattered smallwoodlands
 - Historic north-south crossing points with ragstone bridges over the River Beult
- 6.27 The current application must be viewed in the context of existing lawful Gypsy and Traveller development that has taken place in the locality as follows. Immediately abutting the site to the south, planning permission was granted under ref: 18/502028 for the change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access. This permission permits the permanent use of the site for Gypsy and Traveller accommodation.
- 6.28 Abutting the site to the north under ref: 14/506183/full planning permission was granted for the stationing of 2 mobile homes, utility block, touring caravans and stables and open paddock area. This permission also permits the permanent use of the site for Gypsy and Traveller accommodation.
- 6.29 The application now under consideration is therefore between lawful Gypsy and Traveller sites. Given the narrowness of the site, scale of the development and character of adjoining development along with existing and proposed landscaping, it is considered that no additional harm to the landscape or rural character of the area occurs as a result of the continued use of this site for Gypsy and Traveller purposes as currently being carried out. It is also considered the development does not have any material impact on the landscape characteristics of the Beult Valley described above.
- 6.30 As a consequence the development is considered to meet the visual requirements of policy DM15 in that it will not result in material harm to the rural and landscape quality of the area and is in accordance with policies SP17 and DM30 of the local plan.

Cumulative Impacts:

- 6.31 Guidance in the PPTS states that Local Planning Authorities should strictly limit new Gypsy and 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.
- 6.32 Dealing first with the whether the development dominates the nearest settled community given the modest number of persons involved in the development this would not be the case.
- 6.33 Regarding cumulative visual impacts, for the reasons set out above no harm is identified to the development on these grounds.

Sustainability

- 6.34 Gypsy and Traveller sites are mainly located in the countryside and guidance

acknowledges this. 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.

- 6.35 It is acknowledged the site occupies an isolated rural location remote from public transport and services. However as its siting is no worse than the adjoining Gypsy and Traveller development which was granted planning permission it is considered there is no grounds object to the development on unsustainable siting grounds

Amenity:

- 6.36 There are no nearby dwellings experiencing direct loss of outlook or amenity from the development.

Wildlife

- 6.37 Though development should be used an opportunity to bring about wildlife improvements, the retrospective nature of the development means there is limited potential here. However the intention to provide additional native species planting will provide additional screening while contributing to wildlife habitat in the locality proportionate to the scale and impact of the development.

Human Rights and Equality

- 6.38 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

- 6.40 The site is intended to be occupied by two working age adults (husband and wife) and two pre- school age children. Apart from the need to provide a settled base for the applicant's pre- school age children, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the development on land in this countryside location.

Other matters:

- 6.41 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.

- 6.42 The Parish Council refers to application ref:17/505888 for the change of use of the land for 5 pitches for Gypsy and Traveller accommodation along with the stationing of 6 static mobiles and 5 day rooms with associated hard and soft landscaping. This application was refused on lack of evidence relating the Gypsy and Traveller status of the site occupants, unjustified harm to the rural character and setting of the area and unsustainable siting.

- 6.43 However a revised application was submitted and approved in June 2018 for essentially the same site area under ref: 18/502028 for the change of use of the land to accommodate 3 Static Caravans, 3 Touring Caravans, and parking for six vehicles, with associated hard and soft landscaping, cesspit, and alterations to an existing access.

- 6.44 The development needs to be screened as to whether it should have been accompanied

by an Environmental Impact Assessment. It is not considered the development is of a scale or impact justifying an Environmental Impact Assessment. It should be stressed this is a technical assessment having no bearing on the consideration of the planning merits of the development carried out above.

7.0 CONCLUSIONS:

7.1 The key conclusions are as follows:

- Sufficient evidence has been submitted to demonstrate the occupants of the plots fall within the definition of Gypsy and Traveller's contained within Government Guidance.
- Significant weight must be given to child welfare and the need to provide a stable background in the planning balance.
- The visual, landscape and amenity impacts are acceptable.
- Will provide a valuable windfall addition to the stock of Gypsy and Traveller 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 As such and notwithstanding the site is subject to an extant enforcement notice (and which is the subject of an appeal), for the reasons set out above it is considered enforcement action should not be pursued and planning permission should be granted.

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 dependents, 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 2 touring caravans, (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.

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.

4. 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.

Reason: In the interests of the visual amenity.

5. The landscaping and planting proposals shown on drawing number TDA.2387.01 shall be implemented by the end of the first available planting season (October to February) following the granting of planning permission. Any planting becoming dead dying or diseased within 5 years of planting shall be replaced by specimen/s of the same size and species in the same location.

If the planting on drawing number TDA.2387.01 is not implemented by the end of

25.07.2019

the first available planting season (October to February) following the granting of planning permission, the use of the site for gypsy and traveller purposes shall cease, the touring caravan any hardstandings and other related development, and structures shall be removed and the site restored to its previous condition.

Reason: in the interests of visual amenity.

6. The development hereby approved shall only be carried out in accordance with drawing nos: TDA.2387.01 and 02.

Reason: In the interests of amenity.

Case Officer: Graham Parkinson