

## REPORT SUMMARY

<b>REFERENCE NO -</b> MA/14/0059		
<b>APPLICATION PROPOSAL</b> Change of use of land for the stationing of 1(no) residential caravan for Gypsy accommodation including resurfacing of site and associated works as shown on site location plan and covering letter received 13/01/14, Preliminary Ecological Assessment received 14/07/14 and amended block plan received 11/09/14.		
<b>ADDRESS</b> The Orchard Place, Benover Road, Yalding, Kent		
<b>RECOMMENDATION</b> PER – Approve with conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Collier Street Parish Council wish to see the application refused.		
<b>WARD</b> Marden And Yalding Ward	<b>PARISH/TOWN</b> Collier Street	<b>COUNCIL</b>
		<b>APPLICANT</b> Mr Fuller <b>AGENT</b> SJM Planning
<b>DECISION DUE DATE</b> 08/06/14	<b>PUBLICITY EXPIRY DATE</b> 08/06/14	<b>OFFICER SITE VISIT DATE</b> 02/05/14
<b>RELEVANT PLANNING HISTORY:</b>		

MA/93/0048 - Continued use of land for stationing of mobile home – Refused (dismissed at appeal)

MA/86/1620 - O/A agricultural dwelling on small holding – Refused (dismissed at appeal)

MA/85/0480 - Temporary permission to continue to station residential mobile home – Refused (dismissed at appeal)

MA/82/0626 - Erection of agricultural dwelling and intensive stock-breeding pen building – Refused (dismissed at appeal)

MA/82/0625 - Retention of existing mobile home – Refused (dismissed at appeal)

Enforcement Notice (3/893) - Material change in use of land to use for purpose of caravan site (1980).

Enforcement Notice (3/1736) - Erection of barn without planning permission (1992).

## MAIN REPORT

### 1.0 Site description

1.01 The proposal site covers an area of approximately 1.4ha, taking on an irregular 'funnel' shape, and is currently the north-eastern corner of a larger field where horses are kept. The proposal site is some 325m to the south-east of the junction with Forge Lane. The site is defined by its northern boundary where there is an existing vehicle access onto Benover

Road; its eastern boundary that adjoins an area of land with a number of ponds; its western boundary that is lined by well established conifers; and its southern boundary that is currently open. The character of the wider area predominantly consists of sporadic residential development surrounded by agricultural land. The cluster of residential properties across the road from the site includes the Grade II listed 'Mill House'.

- 1.02 When approaching the site from the east or west along Benover Road (B2162), the site is screened by mature trees and shrubs along the southern edge of the road, with only glimpses of the site had through this planting and the existing vehicle access. The nearest public vantage point after this is Forge lane that runs in a north/south direction to the south-west of the proposal site, but this is some 250m away from the site.
- 1.03 The proposal site is within flood zone 1 outside the flood plain, with flood zones 2/3 more than 50m away to the south. The application site is in the countryside but does not fall within any other specially designated environmental area as shown by the Maidstone Borough-Wide Local Plan 2000 (MBWLP).

## **2.0 Proposal**

- 2.01 The proposal is for the change of use of the land for the stationing of 1 Gypsy/Traveller pitch with 1 tourer. The proposal would include the laying of permeable hardstanding; a new entrance gate; and the planting of a native hedge along the southern boundary of the site. The mobile home is shown to be set back some 35m from Benover Road. The remainder of the field would continue to be used for the keeping of horses and likely to be used by future occupants, with no new vehicle access proposed.
- 2.02 It is not known at this stage who will occupy the site, but it has been made clear that the site is for persons who qualify as a Gypsy or Traveller under central Government's guidance contained with 'Planning Policy for Traveller Sites' (PPTS) published in March 2012.

## **3.0 Policies and other considerations**

- Development Plan 2000: ENV6
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP5, GT1, DM26

## **4.0 Local representations**

- 4.01 10 neighbours have raised concerns over;
- Visual harm and impact on countryside
  - Landscaping/ecology
  - Future use of the site and surrounding land
  - Highway safety
  - Flood risk/drainage
  - Neighbour amenity

- 4.02 Campaign to Protect Rural England (CPRE) raised concerns over who the future occupants would be; unacceptable development in the countryside; flood risk; and enforcement history on the site.

## **5.0 Consultations**

- 5.01 **Collier Street Parish Council:** Wish to see the application refused and request the application is reported to Planning Committee;

- *The application and the letter differ in the description of the planned development.*
- *We are concerned with the proposed sight lines*
- *The development would be an intrusion into the countryside*
- *In no way will the proposed landscaping mitigate this intrusion*
- *We are not convinced by the flood risk assessment – although the site is claimed not to be at risk of being flooded is an island site, in the Low Weald Flood Plain, surrounded by access roads and land which are liable to flooding which prevent an escape if an emergency occurred*
- *We support the points made by the CPRE (Protect Kent) letter of 12 May 2014*
- *A soak away will simple not work in this area*
- *We would wish to see an environmental impact assessment carried out in view of water within close vicinity to the site*
- *We would wish to see a survey/ impact assessment to confirm that there are no bats within the building that is to be demolished.*

- 5.02 **KCC Highways Officer:** Raises no objection.

- 5.03 **Landscape Officer:** Raises no objection.

- 5.04 **KCC Biodiversity Officer:** Raises no objection.

- 5.05 **Environmental Health Officer:** Raises no objection.

- 5.06 **Environment Agency:** Raises no objection.

## **6.0 Principle of development**

- 6.01 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the MBWLP relates to development in the countryside stating that;

*"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers."*

- 6.02 Policy ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing policy H36 of the MBWLP but this is not a 'saved' policy.

- 6.03 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

6.04 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2012	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

6.05 These figures were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target and were included in the consultation version of the Local Plan.

6.06 Regulation 18 version of the Draft Local Plan states that the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTTSAA) revealed the need for 187 permanent Gypsy and Traveller pitches to be provided in the borough during the period October 2011 and March 2031. Accommodation for Gypsies and Travellers is also a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Draft Policy DM26 of the Regulation 18 version of the Draft Local Plan accepts that this type of accommodation can be provided in the countryside provided that certain criterion is met. The Draft Plan also states that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2016.

6.07 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint. In the case of this specific site, there is no reason to object to a permanent unrestricted use as a gypsy site.

Need for Gypsy Sites

6.08 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

6.09 As stated above, the projection accommodation requirement is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2012	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

6.10 Taking into account this time period, since 1<sup>st</sup> October 2011 the following permissions for pitches have been granted (net):

- 55 Permanent non-personal permissions
- 10 Permanent personal permissions
- 0 Temporary non-personal permissions
- 28 Temporary personal permissions

6.11 Therefore a net total of 65 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 40 pitches remains outstanding.

6.12 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

#### Gypsy Status

6.13 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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."*

6.14 I do not raise an objection to this application on the grounds that the future occupiers are unknown. Indeed, as explained, there is a proven ongoing general need for pitches and future occupants of the site will have to fall within the Annex 1 of the PPTS definition, which will be ensured by way of condition.

## **7.0 Visual impact**

7.01 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside (paragraph 23) 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 is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.

7.02 Whilst the proposal would result in new development in the countryside, the parcel of land in question is well screened by the existing buffer of trees along the southern side of Benover Road, as well as the existing hedgerow along the western boundary of the site that is to be retained and the well planted eastern boundary of the site. The applicant will be expected to plant a native hedge along the open southern boundary of the site to further soften and enhance the development; and negotiations have also lead to the level of hardstanding to be significantly reduced to

further reduce any potential visual harm. So in terms of views, whilst there are glimpses of the site from short range along Benover Road, there are no significant medium to long distance views of the site from any other public vantage point. I therefore take the view that the site is not prominent in the wider landscape.

- 7.03 I am also satisfied that the proposal would not have an adverse impact on the character and setting of the near-by Grade II listed property 'Mill House'.
- 7.04 Given the site's location and the good level of well established landscaping that already surrounds the site, and the re-enforced landscaping that will be ensured by way of condition, I am of the view that this development would not appear visually dominant or incongruous in the countryside hereabouts and raise no objections in this respect.

## **8.0 Residential amenity**

- 8.01 A residential use is not generally a noise generating use; the nearest residential property on the southern side of the road is more than 60m away and the properties on the northern side of the road are separated from the site by the B2161. Given this, I am satisfied that the provision of 1 pitch in this location would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of general noise and disturbance, privacy, light or being an overwhelming development. Any excessive noise from the site that does have a significant impact should be dealt with under Environmental Health legislation.

## **9.0 Highway safety implications**

- 9.01 The site benefits from an existing vehicle access onto Benover Road with adequate visibility and I am satisfied that the proposal would not result in any significant intensification of traffic movements to and from the site. The gate would also be set back a suitable distance to enable it to be negotiated with a vehicle parked off the highway. There would also be adequate turning facilities within the site. I am therefore satisfied that this proposal would not have an adverse impact on highway safety and the KCC Highways Officer has also raised no objections.

## **10.0 Landscape and biodiversity implications**

- 10.01 One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". In the first instance no ecological information had been submitted with this application, and the KCC Biodiversity Officer was of the view that the proposal did have the potential to result in ecological impacts, and in particular on Great Crested Newts. Indeed, the proposal site is adjacent to a pond within an area known to have great crested newts, and there is a risk that the construction of the hardsurfacing could result in Great Crested Newts being killed or injured. I considered this conclusion to be reasonable and duly requested an

ecological survey to be carried out assessing the potential for Great Crested Newts to be present and impacted by the proposed works. The applicant subsequently submitted a Preliminary Ecological Assessment, and the Biodiversity Officer is satisfied that this has been carried out to an appropriate standard and advise that no further ecological survey work is necessary at this time.

10.02 The submitted report did conclude that the site has limited ecological interest and recommendations are provided to minimise the potential for ecological impacts, which are in summary:

- *The implementation of the precautionary approach to the works specified in Table 1;*
- *Vegetation removal and demolition of existing structures takes account of the potential for breeding birds, as specified in Table 1.*

10.03 In the interest of biodiversity, a condition will be imposed requesting that a detailed mitigation strategy and enhancement measures (which shall accord with the recommendations and biodiversity enhancements as set out in the Preliminary Ecological Assessment) is submitted for approval prior to the commencement of any works.

10.04 In response to the objection raised by Collier Street Parish Council, the Biodiversity Officer is satisfied with the ecological work undertaken and has not recommended that further bat surveys should be carried out. Indeed, the Preliminary Ecological Assessment shows the near-by building referred to, to be unsuitable for roosting bats. In any case, this building is not within the proposal site.

10.05 There are no protected trees on, or immediately adjacent to this site, but there are significant hedgerow trees to the west of the existing access. The Landscape Officer is concerned that the laying of hard surfacing could potentially adversely affect these trees. So whilst there are no arboricultural grounds on which to object to this application, a pre-commencement condition requiring an arboricultural method statement in accordance with the recommendations of BS5837:2012 (including a decompaction specification and details of no-dig permeable driveway construction) will be imposed. A landscaping scheme will also be ensured by way of condition to ensure that new planting, particularly along the southern boundary, will be native species.

## **11.0 Flood risk and drainage**

11.01 The Environment Agency have raised no objection to this proposal as their flood maps do show that the site lies in flood zone 1 outside the flood plain. The Environment Agency also comment, although not object, that because the geology of the site is weald clay, it may have problems with surface water disposal, dampness and means of access during flood events.

11.02 In terms of surface water drainage, soakaways may not be the best option here and permeability testing would be required to ensure infiltration can

occur. This is not a reason to object to this application and future occupants will be advised of this by way of an informative. In terms of foul drainage, where it is not possible to be connected to the main sewer, the Environment Agency recommends the installation of a Package Treatment Plant and not Septic Tanks. The applicant will be advised by way of informative that they may require an Environmental Permit from the Environment Agency. To clarify the situation and as requested by the Environmental Health Team, a condition will be imposed to provide full details of a scheme of foul and surface water drainage.

11.03 In terms of access to the site during flood events, this issue is a matter for the Council to consider as part of the emergency planning process, to see if it is a 'safe' development. This said, it is not within the capacity of the Council's Emergency Planning Team to refuse or allow a development on the basis of the Council's 'Major Emergency Plan', and future occupants should make arrangements to monitor flood alerts and have a plan in the event of an imminent flood. Given that the site is within flood zone 1 outside the flood plain, I do not consider it necessary or reasonable to pursue this issue any further and I am satisfied that flood risk could be affectively managed and therefore the consequences of flooding are acceptable.

## **12.0 Other considerations**

12.01 The objections raised by Collier Street Parish Council and the local residents have been addressed in the main body of this report. However, I would like to add that the planning enforcement history is from the 1980's and the 1990's and is of little relevance on this application which is being fully considered on its own merits. I am also of the view that the proposal is clear, and I am able to determine this application based on the detail submitted and the site visit undertaken. I can only consider the proposal that has been submitted and any future development would have to be assessed by the Council as and when it happened. An environmental impact assessment is also not required.

## **13.0 Conclusion**

13.01 I am of the view that the proposed development would not result in severe visual harm to the character and appearance of the countryside hereabouts, and consider it an acceptable development in the countryside. I am therefore satisfied that a permanent (non-restrictive) consent would be appropriate in this instance.

13.02 I consider that this proposed development would not cause any demonstrable harm to the character, appearance or vitality of the area, and would not significantly harm the amenities of existing residents. It is therefore considered that the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant; and recommend conditional approval of the application on this basis.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. 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 2012;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

3. No more than 1 static caravan or mobile home, 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.

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

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

5. The development shall not commence until details of the proposed permeable materials to be used in the hardsurfacing within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the subsequently approved details;

Reason: To ensure that the development positively responds to the character and appearance of the locality and to ensure adequate drainage.

6. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

7. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction -

Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of all new planting within the site;
- ii) Native hedge planting along the southern boundary of the site.

Reason: In the interests of visual amenity and biodiversity.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the 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 external appearance to the development.

9. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority an Arboricultural Method Statement which shall be in accordance with BS 5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall include a decompaction specification and details of no-dig permeable driveway construction;

Reason: To ensure the retention of existing trees within and adjacent the site.

10. The development shall not commence until a detailed mitigation strategy and enhancement measures (which shall accord with the recommendations and biodiversity enhancements as set out in the Preliminary Ecological Assessment received 14/07/14), have been submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved strategy unless any amendments are agreed in writing by the local planning authority.

Reason: In the interests of ecology and biodiversity.

11. The development shall not commence until details of a scheme of foul and surface water drainage for the site have been submitted to an approved by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To ensure adequate drainage arrangements.

12. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways;

Reason: To prevent pollution of the water environment.

13. No floodlighting shall be installed on the site without the prior written consent of the Local Planning Authority;

Reason: To prevent light pollution in the interests of the character, amenity and biodiversity of the area.

14. The development hereby permitted shall be carried out in accordance with the amended block plan (1:500) received 11/09/14;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

## INFORMATIVES

1. All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention, the applicant should refer to the Environment Agency's guidance "PPG1 - General guide to prevention of pollution", which is available on their website at <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>
2. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2), provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:
  - i. Duty of Care Regulations 1991
  - ii. The Waste (England and Wales) Regulations 2011
  - iii. Hazardous Waste (England and Wales) Regulations 2005
  - iv. Pollution Prevention and Control Regulations (England and Wales) 2000
  - v. Environmental Permitting (England and Wales) Regulations 2010
3. Future occupants of the site are advised to periodically maintain the frontage within their control on the western side to enable nearside visibility from this direction.
4. Any watercourse within the boundary of the site would be classified as an ordinary watercourse and would not be maintained by the Environment Agency. In the absence of any express agreement to the contrary, maintenance is the responsibility of the riparian owners.

5. In terms of surface water drainage, soakaways may not be the best option in this location because the geology of the site is weald clay and permeability testing would be required to ensure infiltration can occur. Future occupants are advised to contact the Environment Agency for further advice on this issue.
6. Foul drainage should be connected to the main sewer, and where this is not possible the Environment Agency recommends the installation of a Package Treatment Plant and not Septic Tanks. If these are installed and it is proposed to discharge treated effluent to ground or to a surface watercourse, the applicant may require an Environmental Permit. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010, and a permit will only be granted where the risk to the environment is acceptable. To help choose the correct option for sewage disposal, additional information can be found in the Environment Agency's Pollution Prevention Guidelines (PPG) 4: Treatment and Disposal of Sewage where no Foul Sewer is available which can be found at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>
7. 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 planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence.
8. Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
9. Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Case Officer: Kathryn Altieri

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.