

REPORT SUMMARY

15 March 2018

REFERENCE NO – 16/506432/FULL			
APPLICATION PROPOSAL: Retrospective application for the change of use to residential caravan site for one gypsy family with two caravans (1no. static caravan and 1no. mobile home), with creation of hardstanding, erection of amenity building and erection of garden shed.			
ADDRESS: Orchard Spot, Orchard Farm Nursery, Chartway Street, Sutton Valence			
RECOMMENDATION: GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed change of use of the land, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Local Plan 2017), and the provisions of the NPPF and there are no overriding material planning considerations justifying a refusal of permission.			
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views of Broomfield & Kingswood Parish Council who has requested that the application be determined by Committee.			
WARD Leeds	PARISH/TOWN COUNCIL Broomfield & Kingswood	APPLICANT – Mr Sonny Hawes AGENT – Philip Brown Associates	
DECISION DUE DATE 27/10/2016	PUBLICITY EXPIRY DATE 26/9/2016	OFFICER SITE VISIT DATE 20/01/18	
RELEVANT PLANNING HISTORY (including relevant history on adjoining sites): No planning history for the land within the redline outline of the application – the following planning history relates to adjoining land within Orchard Farm Nursery.			
App No	Proposal	Decision	Date
17/503647/FULL	Erection of a day room/utility building.	Permitted	11/07/17
15/501168/FULL	Change of use of land to use as a residential caravan site for one gypsy family with one mobile home, one touring caravan, utility building and hardstanding – Permitted. (Permanent permission)	Permitted	21/04/16
15/507195/FULL	Retrospective application for replacement of gypsy mobile home with one single storey detached dwelling (180sqm footprint) – Refused/ Dismissed at appeal – Enforcement Notice served with Four year compliance.	Refused Dismissed EN Issued	02/02/17 08/06/17
12/1544	Retrospective application for the change of use of land to use as a residential caravan site for 2 Gypsy families with up to 4 caravans of which no more than 2 would be static caravans, including the laying of hard surfacing and the erection of 2 amenity buildings	Permitted	25/04/016
12/0605	Change of use of land to use as residential caravan site for one gypsy family with two caravans, erection of an amenity building and laying of hardstanding – Permitted	Permitted	25/05/12

11/1489	Variation of condition 01 of planning permission reference MA/09/1697 (retrospective application for the change of use of land to residential for stationing of one no. mobile home) to allow the use to be carried on only by Mr & Mrs Ray Pearce and their dependent children	Permitted (personal)	27/10/11
11/1534	Change of use of land to use as a residential caravan site for 2 gypsy families involving the siting 4 caravans of which no more than 2 are to be static mobile homes; the erection of 2 amenity blocks; and the laying of hard standing and construction of a driveway – Approved.	Permitted	01/01/11
10/2119	Change of use of the land to a mixed use as a horticultural nursery with a farm shop and cafe. Provision of a revised access	Permitted	29/03/11
09/1697	Retrospective application for the change of use of land to residential for the stationing of 1 no. mobile home	Permitted (personal)	02/07/10
09/0463	Erection of farm shop to serve plant nursery	Permitted	28/07/09
07/2532	Retention of mobile home as an ancillary staff shelter/restroom and office in connection with the use of the plant nursery	Permitted	27/05/08
07/1491	Temporary planning permission for the erection of a mobile home for a period of 3 years relating to the horticultural nursery. (resubmission of planning application MA/06/1922 for the erection of a detached house and garage	Refused (allowed on appeal)	10/09/07
06/1922	Erection of a new detached house and garage	Refused (allowed at appeal)	08/12/06

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The application site relates to a gypsy and traveller site located on the north side of Chartway Street. It is a small pocket of land whereas the wider site contains gypsy traveller pitches with a mixture of static caravans, tourers and utility blocks, the majority of which benefit from both permanent and personal consents, as set out in the history above. The wider site is generally orderly and well maintained, and the small area of land the subject of this application, sandwiched between other such sites, is no exception.
- 1.2 There is a permanent dwelling on adjoining land to the east which was refused permission (15/507195/FULL) and later dismissed at appeal. The dwelling is due to be removed in line with an enforcement notice that was subsequently served and has taken effect without appeal. There is one plot where there is a current application for a

further residential caravan site which has not been determined. There are further gypsy traveller sites to the east.

- 1.2 The site is served by an established access from Chartway Street and the access also serves five other plots. In a wider context the site is located in open countryside but not subject to any specific landscape designation.
- 1.3 To the east is Finches holiday caravan site accommodating 18 seasonal pitches with caravan storage and facilities. To the north is open countryside and to the south is the Ridge golf and country club.
- 1.4 The application site is located in the north east corner of the site, occupied by one static caravan, one amenity building and one shed.

2.0 PROPOSAL

- 2.1 Retrospective planning permission is sought to continue using the site as a Gypsy and Traveller site for Mr Hawes and his family, in accordance with the proposal's description.
- 2.2 The pitch would be located within the existing Orchard Farm Nursery Gypsy and Traveller site. Access would be via the existing site access which would be shared with the existing site occupants. The future occupants of the site have been identified as belonging to the Gypsy and Traveller community.
- 2.3 The application is supported by the following documents:
Gypsy Status Declaration
Design and Access Statement

3.0 POLICY AND OTHER CONSIDERATIONS

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Maidstone Local Plan (2011-2031): Policies SS1, SP17, DM15 & DM30
- Planning Policy for Traveller Sites 2015 (PPTS)
- Neighbourhood Plan: N/A

4.0 LOCAL REPRESENTATIONS

- 4.1 No local representations were received in relation to this application.
- 4.2 Broomfield & Kingswood Parish Council – object to the application for the following reasons:
 - The site's growth is becoming of an unacceptable size; there is a threat to the impact of the local landscape and the site creates a dominance of traveller communities within Broomfield and Kingswood.
 - Councillors wish to see the number of pitches or plots limited to the circumstances of the specific size and location of the site and the surrounding population's size density by setting a maximum number of static and mobile homes permitted on this site.
 - There is concern that further expansion will cause tensions between settled and traveller communities.

Broomfield & Kingswood PC wish to see this application refused and require it to go before the planning committee if the conclusion of MBC is contrary to that of the Parish Council

5.0 CONSULTATIONS

5.1 KCC Highways – No objections

5.2 KCC Archaeology – No comment

6.0 APPRAISAL

Key Issues

6.1 The key planning considerations relate to the visual impact of the development on the character and appearance of the open countryside, the impact on the amenities of the adjoining occupiers and parking and highway safety issues. These need to be balanced against any identified need for such sites and any personal circumstances that may be advanced by the applicant.

Policy Background

6.2 Policy SS1 is a spatial strategy policy for all of Maidstone Borough. The policy refers to a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTTSA) that sets the quantitative need for sites and the methodology for site delivery.

6.3 Local Plan Policy SP17 'The Countryside' states that 'development proposals in the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area.'

6.4 Local Plan Policy DM15 is specific to gypsy development, allowing for development subject to compliance with certain criteria, which includes sustainability, landscape character, the cumulative effect of development, highway safety, flooding and ecology.

6.6 Issues of need are dealt with below, but in terms of broad principle local planning policies and also 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.

Need for Gypsy sites

6.7 Local Planning Authorities are required to set their own Local Plan targets for pitch provision in their area. In order to address this, Salford University were commissioned to carry out a Gypsy and Traveller and Travelling Show-people Accommodation Assessment (GTAA) which was published in 2012 to cover the period October 2011 to March 2031.

6.8 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

- 6.9 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.
- 6.10 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan.
- 6.11 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 local plan. The GTAA had already asked those surveyed whether they had ceased to travel. The only recognised omission was whether those who had ceased to travel intended to resume travelling. The Inspector concluded that a new survey to address this would be unlikely to result in anything but small changes to the needs figures. The Inspector concluded that the needs evidence is adequate.

Supply of Gypsy Sites

- 6.12 Under the terms and conditions of The Housing Act (2004), accommodation for Gypsies and Travellers is a specific form of housing, which Councils have a duty to provide. Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.
- 6.13 Between the base date 01.10.2011 of the GTAA and 31.12.2017, a net total of 134 permanent pitches were provided. This means that a further 53 permanent pitches are required by 2031 to meet the objectively assessed need identified in the GTAA. The level of provision to 21.12.2017 can be broken down as follows:
- 112 permanent non-personal pitches
 - 22 permanent personal pitches
 - 3 temporary non personal pitches
 - 34 permanent personal pitches
- 6.14 The PPTS states that LPA's should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient to meet the 10 year period following Local Plan adoption (currently anticipated as late 2017). The Local Plan allocates a number of sites sufficient to provide 41 additional pitches by 2031. Although this figure does not satisfy identified demand there will be potential uplift through the provision of windfall sites yet to come forward. Accordingly it is considered that the objectively assessed need (OAN) for 187 pitches can realistically be achieved.
- 6.15 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 5.3 year supply of Gypsy and Traveller sites at the base date of 1st April 2016. However even where it can be demonstrated a 5 year supply of Gypsy and Traveller sites exists this does not preclude further gypsy and traveller sites being permitted if the provisions of policies SP17 and DM15 of the local plan are considered to be satisfied. Unidentified or 'windfall' Gypsy and Traveller sites also contribute to meeting the adopted targets for gypsy and traveller development within the Borough.

Gypsy status

- 6.16 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.”

- 6.17 To determine whether an applicant falls within the definition, the PTS 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.
- 6.18 The occupants comprise a married couple, Sonny and Michelle Hawes, and their young son who is now of school age. Originating from the Maidstone area they are related to other local gypsy families. Since marrying in 2010 they have travelled by means of a touring caravan, finding work in the south east of England for up to five months per year, returning to the application site for the winter period.
- 6.19 Based on the evidence available it can be reasonably concluded that the applicants are of Gypsy heritage and are from the travelling community. A condition is recommended to ensure that the site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015

Human Rights and Equality

- 6.20 Regard has been had to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty under the Equality Act 2010. Article 8 of the European Convention on Human Rights (as incorporated by the HRA) requires that decisions ensure respect for private and family life and the home. The Article 8 rights of the children must also be seen in the context of Article 3 of the United Nations Rights of the Child which requires that the best interests of the children shall be a primary consideration.

Visual/Landscape Impact

- 6.21 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also indicates that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure.
- 6.22 No specific reference is made to landscape impact although this is addressed in the NPPF and also Policy DM15 of the Local Plan which indicates that planning permission for G&T development will be granted if it would not result in significant harm to the landscape and rural character of the area.
- 6.23 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or hidden away in

unobtrusive locations they are normally considered unacceptable due to adverse visual impact. Where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.

- 6.24 Policies SP17 and DM15 of the Local Plan are particularly relevant in this context. The site has been located so as to have minimal impact on its surroundings. To the rear a wide band of trees separates the site from open fields. It is considered that the proposal complies with the criteria set out in Policies SP17 and DM15.

Highways

- 6.25 The access onto Chartway Street has satisfactory visibility splays. With the nature of the development it will not generate significant traffic movements. In these circumstances and in the absence of objection from Kent Highways no objection is identified to the development on these grounds..

Cumulative Impacts:

- 6.26 The site lies in close proximity to several existing Gypsy and Traveller sites. The Parish Council has expressed concern that the site's growth is becoming of an unacceptable size and there is a threat to the impact of the local landscape creating a dominance of traveller communities within Broomfield and Kingswood. Councillors wish to see the number of pitches or plots limited to a maximum number on this site. There is concern that further expansion will cause tensions between settled and traveller communities.
- 6.27 The application site, sandwiched between the neighbouring sites within the established Gypsy and Traveller site, Orchard Farm Nursery, was created in 2014, but lay vacant until 2016, since which time it has been occupied by Mr Hawes and his family. Given its location within the wider site the use is not considered to encroach any further into the countryside. Moreover, it is unlikely that any further sites could be introduced at Orchard Farm Nursery as its capacity would be reached should this application be successful.
- 6.28 The NPPF and PPTS 2015 provide some guidance in respect of cumulative impact. The Government's aim is to reduce tension between the settled and travelling communities and in order to achieve this PPTS 2015 requires that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of development does not dominate the nearest settled community. In this instance, the proposal would not result in an overly cramped form of development or one that would unacceptably dominate the existing residential community.

Ecology Impacts.

- 6.29 Given the site's existing development, there would be no conflict with Policy DM15.

Sustainability

- 6.30 Gypsy and traveller sites are often located in the countryside and the application site follows this pattern. The site is located within 1.5 kilometres of Kingswood and approx. 2 kilometres from Sutton Valance allowing access to schools, medical provision and shopping facilities. As such, it is not considered the site is so remote from services to

justify refusal on sustainability grounds particularly having regards to the existence of adjoining lawful gypsy and traveller sites.

Residential amenity

- 6.31 One proposed pitch would be of sufficient size to ensure that, spatially, living conditions would be acceptable for future occupiers.

7.0 CONCLUSION

7.1 It is not considered that this site would visually impact on the character and appearance of the rural area. Policy allows that, subject to strict control and in order to satisfy the Borough's responsibility to accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, such sites can be acceptable in the countryside. The proposed development would be largely screened to long distance views from the north and east whilst the site would be located within a wider existing gypsy and traveller settlement. Views of the wider settlement from properties beyond would not be possible and would therefore be in accordance with policy DM15. As a result the impact of development upon the character of the countryside and the amenity of the settled community would be acceptable.

7.2 Granting planning permission would assist in meeting the Council's unmet need for Gypsy and Traveller accommodation in the Borough and would comply with both the Maidstone Local Plan and National Planning Guidance. Material circumstances indicate that subject to imposition of conditions a permanent planning permission should be granted.

8.0 RECOMMENDATION

GRANT planning permission subject to the following conditions:

1. No more than two 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 caravan) shall be stationed on the application site at any time;

Reason: To accord with the terms of the application and to safeguard the amenity, character and appearance of the area.

2. The site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in the countryside where the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

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

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the surrounding Landscape of Local Value.

4. Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (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: To prevent overdevelopment of the site and to safeguard the rural character and appearance of the surrounding Landscape of Local Value.

5. All hard-standings shall be permeable to enable surface water to percolate directly to the ground below and shall be retained as such thereafter.

Reason: To minimise flooding of neighbouring land and the highway and in the interests of sustainable drainage.

6. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Layout Plan 1:200, Elevational Plans x 2 and Location Plan dated 11/08/2016.

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

Case Officer: James Bailey

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