

REPORT SUMMARY

REFERENCE NO - 16/504014/FULL		
APPLICATION PROPOSAL Retrospective application for change of use of land for the stationing of 2 Static mobile homes for Gypsy/Traveller occupation with associated hard and soft landscaping works.		
ADDRESS Highlands Farm Yalding Hill Yalding Kent ME18 6AL		
RECOMMENDATION - Permit		
SUMMARY OF REASONS FOR RECOMMENDATION The development is not considered to be adversely visually harmful to the countryside; and there are no residential amenity or highway safety issues.		
REASON FOR REFERRAL TO COMMITTEE - Recommendation is contrary to the views of Yalding Parish Council.		
WARD Marden And Yalding	PARISH COUNCIL Yalding	APPLICANT Mr H Wilson AGENT SJM Planning And Construction Ltd
DECISION DUE DATE 07/10/16	PUBLICITY EXPIRY DATE 11/07/16	OFFICER SITE VISIT DATE 07/07/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

MA/06/1410 - Change of use of land for stationing of 4 caravans for temporary seasonal accommodation - Approved

MA/03/0464 - Prior approval for erection of building to provide fruit packing shed and box holding store – Prior approval granted

MA/02/1044 - Prior approval for storage building - Prior approval granted

MAIN REPORT

1.0 Site description

1.01 'Highlands Farm' is located on the north-western side of Yalding Hill and to the west of 'Downs View Oast' which is on the other side of the road. The existing access runs some 100m in length, along the southern boundary of the site with orchard, polytunnels and agricultural land surrounding. The 2 existing buildings on site were allowed through the prior notification process (MA/03/0464 and MA/02/1044); and permission was granted in October 2006 on the same site for the temporary stationing of 4 caravans for seasonal accommodation associated to 'Spindlebush Farm'. There is a public footpath (KM190) approximately 100m to the east of the site that runs in a general north/south direction. For the purposes of the adopted Development Plan, the proposal site is within the countryside.

2.0 Proposal

2.01 This is a part retrospective application for the permanent stationing of 2 mobile homes for gypsy and traveller occupation with associated works including the laying of concrete bases. The applicant has also shown additional boundary landscaping along the south-western boundary to supplement the existing planting. The mobile homes are occupied by Henry and Terry Wilson (who are brothers), and their dependents. At the time of my site visit, there was a mobile home and tourer caravan (being lived in) set on 2 separate concrete aprons set close to the 2 existing buildings. So it is proposed to bring another mobile and tourer on site. The vehicle access is existing; and the caravans are set back some 100m from Yalding Hill and some 165m from Small Profits to the north of the site.

3.0 Policy and other considerations

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan (submission version): SP17, DM7, DM16
- DCLG - Planning Policy for Traveller Sites (August 2015)

4.0 Consultations

- 4.01 **Yalding Parish Council:** Wish to see the application refused and reported to Planning Committee;

“The proposed development is visibly intrusive within the open countryside and would be harmful to the character of the area. Allowing this site would constitute an over intensification of gypsy/traveller sites in the Parish.”

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

“I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.”

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

- 4.04 **Natural England:** Have no comment to make.

- 4.05 **KCC Archaeology:** Have no comment to make.

- 4.06 **Neighbour representations:** No representations have been received.

5.0 Principle of development

- 5.01 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.”

- 5.02 Policy ENV28 then outlines the types of development that can be permitted and this does not include gypsy and traveller development.

- 5.03 However, a key consideration in the determination of this application is central Government guidance contained with ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. 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.

- 5.04 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general development restraint policies.

- 5.05 In addition, the submitted version of the Development plan went to the Secretary of State for examination in May 2016 and examination will follow in October/November this year. This Plan and its policies are considered to hold significant weight; and policy SP17 of this Plan seeks to restrict development in the countryside, whilst policy DM16 accepts this type of accommodation can be provided in the countryside provided certain criteria are met.

Need for Gypsy Sites

- 5.06 Although the emerging local plan is well advanced, there are not yet any adopted development plan policies relating to the provision of gypsy sites. Members are reminded that Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. 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

- 5.07 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 as it does part of the evidence base to the emerging Local Plan, and it is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of needs available at this point of time and the decision needs to be based on evidence at the time of the decision.
- 5.08 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and submitted to the Secretary of State on 20th May 2016.

Supply of Gypsy sites

- 5.09 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).
- 5.10 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- 82 Permanent (non-personal)
 - 16 Permanent (personal)
 - 3 Temporary (non-personal)
 - 33 Temporary (personal)
- 5.11 Therefore a net total of 98 permanent pitches have been granted since 1st October 2011. A further 89 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 5.12 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 submission Draft Local Plan does allocate specific sites, and these are sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. 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. The Local Plan's adoption is currently timetabled for the latter half of 2017.

- 5.13 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. With the submission of the Local Plan, the council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016. In these circumstances, the PPTS direction to positively consider the granting of a temporary consent does not apply.

Gypsy Status

- 5.14 Since the application was submitted, the Government has issued revisions on the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, and the planning definition of 'gypsies & travellers' have been amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

- 5.15 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 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.

- 5.16 The agent has confirmed that Henry and Terry (and their respective families) continually travel to horse fairs around the country to trade and deal as part of their culture. Typically, they travel to Appleby, Stow-on the Wold, New Forest and Bournemouth; and both are also self-employed horse dealers and landscape gardeners who travel from place to place. It is therefore reasonable to say that Henry and Terry have not ceased to travel permanently or temporarily; and that they will continue to travel for work for the purposes of making a living. With the evidence before me I am therefore of the view that they do lead a nomadic habit of life and accept that they fall within the gypsy status definition for the purposes of planning.

Sustainability

- 5.17 Gypsy traveller sites will almost inevitably be located in countryside locations, and the site is approximately 1km to the north of Yalding village. In my view, I do not consider the site to be so far removed from basic services and public transport opportunities as to justify grounds to refuse this application in terms of being unsustainable.

6.0 Visual Impact

- 6.01 Guidance in the PPTS states that local planning authorities should very strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact has been outlined however this is addressed in the NPPF and saved adopted Local Plan policy ENV28.

- 6.02 The access road is existing and the site is set back some 100m from Yalding Hill and well screened by the orchards in front and the dense hedgerow along the site's eastern boundary. The site is some 165m from Small Profits which is a rural lane to

the north of the site, and well screened from here because of the orchards, polytunnels and field margin planting. Glimpses of the site are possible from the public footpath to the east of the site, but again the surrounding orchards and boundary planting largely screens the development and the footpath is a significant enough distance away for any view to not appear dominant or incongruous. Whilst there may be longer views of the site to the south-west from Kenward Road (approx. 1km away) and Hampstead Lane (approx. 1.8km away, these views would be limited and very much read in context with the swathes of polytunnels that area strong characteristic of the area, and I raise no objection in this respect. It should also be noted that the visual impact of the buildings is not for consideration as these have already been accepted through the prior notification process some 10 years ago; and that permission was previously given on the site for the permanent stationing of 4 caravans for agricultural workers under MA/06/1410.

- 6.03 The site benefits from retained, well-established boundary planting; and the drawings also show additional planting along the south-western boundary of the site. A suitable condition will be imposed to ensure the retention and enhancement of the boundary planting is safeguarded. I am therefore satisfied that the development does not appear prominent or visually intrusive in the surrounding landscape and I consider an unrestricted permanent use of the site to be acceptable.

7.0 Residential Amenity

- 7.01 A residential use is not generally a noise generating use; and the nearest residential property would be more than 100m away from the additional pitches. Given this, I am satisfied that the addition of 2 more mobile homes would not have a significant detrimental impact on the residential amenity of any neighbouring residence, in terms of general noise and disturbance and privacy.

8.0 Highway safety implications

- 8.01 The 2 pitches make use of the existing access; there is sufficient parking and turning facilities within the site; and the development does not lead to a significant increase in traffic generation or an unacceptable intensification of use of the access. I am therefore satisfied that the development would not result in a highway safety issue.

9.0 Other considerations

- 9.01 The proposal site is within Flood Zone 1; the site consists of areas of hardstanding and well maintained grass areas; and no boundary planting will be removed as part of this development. I therefore raise no objections in terms of flood risk and it is considered unreasonable to request any further ecological information. Environmental health has raised no objections in terms of land contamination; air quality; noise; lighting and amenity. Whilst the Environmental Health Officer has requested further details of foul sewage, the applicant has shown on the plans that a 'Klargester' treatment plant has been installed and I consider this to be sufficient to be acceptable in terms of waste disposal.
- 9.02 The issues raised by Yalding Parish Council have been addressed in the main body of this report and it is also considered that the development would not result in an over concentration of gypsies and travellers in the area.
- 9.03 In accordance with National planning policy, the issue of intentional unauthorised development is a material consideration in the determination of this retrospective application. In this instance it is not considered to be reason alone to refuse this application as the development is considered to be acceptable.

10.0 Conclusion

10.01 For the reasons set out, the development is not considered to be adversely visually harmful to the countryside; and there are no residential amenity or highway safety issues. So in weighing up the material planning issues/policies and policy support to allow accommodation for gypsies and travellers in the countryside subject to the detail of any application, I take the view that in this instance an unrestricted permanent permission should be granted for 2 pitches in this location.

11.0 RECOMMENDATION –GRANT Subject to the following conditions:

CONDITIONS

- (1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

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

- (2) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any time;

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

- (3) When the land ceases to be occupied the use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land in connection with the use shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.

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

- (4) Within three months of the date of the permission hereby granted 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' with indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management shall be submitted to and approved by the Local Planning Authority. 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) Retention of existing boundary planting;
- iii) New native hedge planting along the south-western boundary (as shown on drawing 2016-009-Block received 19/05/16);

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

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- (5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following this approval; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

- (6) No external lighting whether permanent or temporary shall be installed on the site without the prior written consent of the Local Planning Authority;

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

- (7) No commercial activities shall take place on the land, including the storage of materials, without the prior written consent of the Local Planning Authority;

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

- (8) The development hereby permitted shall be carried out in accordance with site location plan received 14/09/16 and drawing 2016-009-Block received 19/05/16;

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

INFORMATIVES

- (1) 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. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.
- (2) If a sewage disposal method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.
- (3) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
- (4) Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Council's Environmental Services Manager.

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- (5) Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Council's Environmental Enforcement Team.

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.