

REPORT SUMMARY

9 November 2017

REFERENCE NO - 16/505326/FULL		
APPLICATION PROPOSAL: Variation of conditions 1 & 2 of MA/13/0103 to make the permission non personal and either make permission permanent or allow a further temporary permission.		
ADDRESS: Pear Paddock, Symonds Lane, Yalding, Kent ME18 16HA		
RECOMMENDATION: Grant permanent planning permission subject to conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed variation of conditions 1 & 2 of MA/13/0103 to allow a further temporary permission, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000), the Final Draft Maidstone Local Plan and 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 Yalding Parish Council.		
WARD Marden and Yalding	PARISH/TOWN COUNCIL Yalding Parish Council	APPLICANT – Mr and Mrs T Coster AGENT – Heine Planning Consultancy
DECISION DUE DATE (Extended) 31.10.2017.	PUBLICITY EXPIRY DATE 27.07.2016	OFFICER SITE VISIT DATE 21/06/2017
RELEVANT PLANNING HISTORY Enforcement and Stop notices were issued in September 2000 and a separate planning application made for the stationing of a caravan and a gypsy family. Permission was refused and the subsequent appeal dismissed in 2001. A further application was made in 2005 which were also refused. The appeal was considered at a public inquiry in 2007 on the basis of a change of use for the retention of 2 mobile homes and 2 touring caravans together with associated buildings and a new access to Pear Paddock, The appeal was dismissed. Under the terms of the injunction the site should have been vacated by the end of December 2007. Personal planning permission MA/09/0731 was granted at Pear Paddock and MA/09/0732 Pear View (the adjoining site to the east) on appeal in 2010 for a limited period of 3 years. The planning inspector identified three areas of concern: Personal planning permission 10/0504 was granted at 'Green Top' in 2010 for a limited period of 3 years. This site adjoins Pear View to the east. Personal planning permission 13/0103 was granted at Pear Paddock and Pear View (the adjoining site to the east) on 27 th June 2013 for a further three year period. That permission expired on 26 th June 2016. The current application for variation of conditions 1 & 2 of 13/0103 relating just to Pear Paddock was submitted on 22 nd June 2016. Condition 1 of 13/0103 restricted the use of the site to Mr and Mrs Tom Coster (senior) and Mr and Mrs Thomas Coster (junior) and their resident dependents for a period of three years. Condition 2 of 13/0103 required that when the site ceases to be occupied by the named occupants and their dependents, or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment shall be removed and the land restored to its former condition in accordance with a scheme to be submitted and approved.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site occupies a rectangular shaped plot of land, located in the countryside approximately 1.5 kilometres south of Yalding. The site is on slightly elevated land on the north east side of Symonds Lane, a narrow rural lane bordered by mature hedgerows.
- 1.2 Land to the north and west comprises open farmland. A similar gypsy and traveller compound, Pear View, adjoins the site to the east. This in turn is adjoined by 'Green Top' also a gypsy and traveller site. The curtilage of the site is screened by native species hedgerows, which are particularly dense along Symonds Lane. The hedgerow boundaries are reinforced by timber fencing.
- 1.3 Access to the site from the north of Symonds Lane is via a recessed vehicular standing area, rising above highway level and flanked by splayed brick walling terminating in a pair of imperforate gates.
- 1.4 The application site currently accommodates a double width mobile home, a single width mobile home, a touring caravan and an assortment of stable, day room and storage buildings, on elevated land to the north of the site. The larger and lower lying southern part of the site comprises orchards and lawn.
- 1.5 In accordance with the Final Draft Local Plan 2016, Yalding is designated as a 'Larger Village' as part of policy SP16. The site and its surroundings are not subject to any landscape designation. In accordance with the Environment Agency's latest flood mapping the site is shown to lie within Flood Zones 2 & 3 (previously shown to lie within Flood Zone 1).

2.0 PROPOSAL

- 2.1 A variation is sought to the terms of conditions 1 & 2 of permission MA/13/0103 granted 27th June 2013 in order to retain the use of the land as a caravan site on a permanent basis. If this is not accepted the family would accept, renewal on a further temporary basis. As permission MA/13/0103 was 'personal', permission is also sought for additional family members (former dependents and their partners).
- 2.2 Condition 1 reads as follows: *"The use hereby permitted shall be carried on only by Mr and Mrs Tom Coster (senior) and Mr and Mrs Thomas Coster and their resident dependents, and shall be for a limited period of three years from the date of this decision, or the period during which the land is occupied by them, whichever is the shorter; Reason: The site is in an area where the stationing of caravans/mobile homes for residential purposes is not normally permitted and an exception has been made to reflect the personal need of the applicant and other occupiers, in accordance with Maidstone Borough-Wide Local Plan 2000 policy ENV28, and central government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012"*.
- 2.3 Condition 2 reads as follows: *"When the site ceases to be occupied by those named in condition 1 (above) or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to the land, or erected on it, or works undertaken to it in connection with the use hereby permitted, shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority; Reason: To*

appropriately restore the site in the interest of protecting the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and central government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012”.

- 2.4 The application is supported by a planning statement submitted on behalf of the applicant by Alison Heine Planning. The planning statement at page 2 provides the following background

“Consent is sought to vary conditions 1 and 2 to retain the use of the land as a caravan site on a permanent basis but if this is not accepted the family would accept, in the alternative, renewal on a further temporary basis. Condition 1 is a personal condition which limits the use to a period of three years until 27 June 2016. Condition 2 is a restoration condition requiring the site to be restored to its previous condition when the site ceases to be occupied in compliance with condition1.

Whilst I question the need for the personal condition, there is no objection to a personal consent being retained if consent is renewed for a further temporary period as this is a family site and only family members would ever occupy the caravans on the site. But if permission were to be granted on a permanent basis it is considered there would be no justification for a personal consent and permission should be for any Gypsy-Traveller to occupy the site”.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV50
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites 2015 (PPTS)
- Final Maidstone Local Plan (2011-2031): GT1, SP16, SP17, DM15
- Neighbourhood Plan: N/A

4.0 LOCAL REPRESENTATIONS

- 4.1 Yalding Parish Council objects to the application recommending refusal for the following reasons:

- The development is harmful to the character and appearance of the area and permanent permission should not be allowed;
- Previous permissions have been personal to the applicant and his dependents - should permission be granted the permission should remain personal and be for a limited period of three years.
- During times of flooding, safe access and egress to the site is prevented.

- 4.2 A letter of objection with two signatories has been received. Their comments can be summarised as follows:

- The site has been occupied for 16 years and much of this time has been in contravention of planning control;
- The Council have referred (in the context of previous applications) to the development as being harmful to the character and appearance of the area and contrary to development plan policies;
- A planning inspector found in 2010 that the site was harmful to highway safety and that there would be increase to the number of people at risk during flood events, concluding that “the totality of harm is not outweighed by

other material considerations that favour the development therefore a permanent permission is not warranted’.

- It would appear that the appeal decision was based upon the unavailability of any alternative site – this does not justify grant of permission on an unsuitable site;
- Proof should be provided that the Gypsy status of the family members has not changed.

5.0 CONSULTATIONS

The Environment Agency

- 5.1 The site would be at risk from shallow flooding during extreme events; the Local Planning Authority should therefore consider the type of accommodation on the site and whether floor levels would be raised sufficiently above ground level to minimise the risk of internal flooding.
- 5.2 If the Local Planning Authority is satisfied on the above point and the requirements of the Sequential Test, they should also consider the details of any ‘Flood Plan’ the residents may have and the potential for safe evacuation under flood conditions.

6.0 APPRAISAL

- 6.01 The key issues for consideration relate to:

- Need for gypsy sites
- Supply of gypsy sites
- Gypsy status
- Visual/landscape impact
- Highways
- Sustainability
- Residential amenity
- Flooding

Need for gypsy sites

- 6.02 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. 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

- 6.03 This, is the best current evidence of need, and forms the evidence base to the Local Plan. 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.

- 6.04 The target of 187 additional pitches is included in Policy SS1 of the emerging Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of gypsy Sites

- 6.05 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. Draft Local Plan Policy DM15 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.

- 6.06 Since the base date a net total of 119 permanent pitches have been provided. This means that a further 68 permanent pitches are required by 2031 to meet the objectively assessed need identified in the GTAA. The level of provision to 21.08.2017 can be broken down as follows:

98 Permanent non-personal mobiles
21 Permanent personal mobiles
3 Temporary non-personal mobiles
37 Temporary personal mobiles

- 6.07 The 'Planning Policy for Traveller Sites' (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. The Draft 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 OAN of 187 pitches can realistically be achieved.

- 6.08 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 5.6 year supply of gypsy and traveller sites at the base date of 1st April 2016. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

Gypsy status

- 6.09 Personal temporary planning permission was granted to Mr and Mrs Coster following an appeal in 2010 with the Planning Inspector satisfied that the resident family qualified for gypsy and traveller status. Mr Coster still travels for work and is helped by his two sons Thomas and Joseph who have grown up on the site, married and now have their own families. Accordingly there is a need for schooling and a structured family life.

- 6.10 In accordance with the terms of the permission (13/0103) granted for Mr and Mrs Tom Coster (senior) and Mr and Mrs Thomas Coster (junior) and their resident dependents. Joseph Coster (formerly a resident dependent) has now married and has a resident family. Mr and Mrs Tom Coster's daughter (formerly a resident dependent) also has a family. Permission is in addition sought for the additional adult family members. Permission is not being sought for any additional mobile homes or caravans.

- 6.11 Taking all evidence into account it is considered that Mr and Mrs Coster (senior) and their family fall within the revised PPTS Gypsy status and are from the travelling community. Were permanent permission to be granted a condition

would be imposed requiring the site to be occupied only by members of the Gypsy and Travelling community.

Visual/landscape Impact

- 6.12 The site is screened by a mature hedgerow to the south west bordering Symonds Lane.
- 6.13 Although hedgerow cover to the remaining three boundaries is not so dense, affording partial views of the upper parts of the mobile homes from vantage points within the adjoining farmland, the degree of screening has improved since previously reported in the context of the 2013 and 2010 applications. Furthermore, notwithstanding that the entranceway arrangement is urban in character, the larger part of the site itself has been given over to grass with substantial tree planting, softening the hard surfacing and overt urbanisation often associated with such sites. The mobiles and associated development would not be readily visible from within the public domain and only marginally visible from private vantage points.
- 6.14 Guidance in the PPTS states that Local Planning Authorities should very strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure.
- 6.15 Although the site forms a small cluster with two similar sites to the east, these do not benefit from permanent consent. Accordingly the long term cumulative impact of development does not need to be addressed as there would be no conflict with Local Plan Policy ENV16 and with PPTS guidance
- 6.16 Although the PPTS does not refer to landscape impact this is addressed in the NPPF, emerging policy SP17 states that provided proposals do not harm the character and appearance of an area, small scale residential development necessary to meet a proven need for gypsy and traveller accommodation will be permitted.
- 6.17 In addition emerging policy DM15 states that, permission will be granted if a site is well related to local services, would not result in significant harm to the landscape and rural character of the area due to visual impacts, including cumulative visual impact and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.
- 6.18 This site has been granted successive permissions for use as a Gypsy and Traveller site, including at appeal, albeit on a temporary and personal basis. In terms of the visual impact of the site on the local landscape the Inspector and the Local Planning Authority have acknowledged that site development would give rise to visual harm and would not protect local distinctiveness. However having regard to all other material considerations impact was found to be not so serious as to warrant dismissal of the appeal or subsequent planning application.
- 6.19 Due to the passage of time and establishment of boundary treatments and associated landscaping, the site has become better assimilated into its surroundings.
- 6.20 While the proposal would not result in the removal of previously identified harm to the countryside it would not result in additional harm. The impact upon the rural

character of the area can be mitigated in accordance with Policy ENV28, Policy SP17 of the emerging Local Plan and the provisions of the NPPF. The visual impact upon countryside appearance and character arising from the proposal is therefore considered acceptable.

Highways

- 6.21 There would be no intensification of use and consequently no increase in vehicle trips. There is a safe vehicle access to the site which has been established for a number of years and no highway safety issues have been identified.
- 6.22 The layout of hardstanding around the mobile homes is sufficient to provide satisfactory on-site parking and turning areas. There are no significant highway issues to warrant refusal of the application.

Sustainability

- 6.23 Although the occupants of the site would be largely reliant on private motor vehicles to access local services and facilities, this is not untypical of Gypsy and Traveller sites in rural locations.
- 6.24 Having regard to Gypsy and Traveller lifestyle choices, sites will almost inevitably be located in countryside locations. Although not highly sustainable in respect of location, the site is not so far removed from basic services and public transport opportunities as to justify refusal on this basis. This follows the reasoning held by the Inspector when determining application MA/09/0731.

Residential amenity

- 6.25 There is an adjoining gypsy and traveller site (Pear View) directly to the east of Pear Paddocks. This site was granted temporary consent for 3 years in 2013 and this has now expired. The sites are separated by 1.8m high close boarded timber fencing and boundary landscaping.
- 6.26 As both sites have independent means of access, do not rise above single storey level and would be used by the Gypsy and Traveller community, amenity is not perceived as an issue.
- 6.27 There are a number of residential properties lining Lees Road, some 200m to the west and others further along Symonds Road to the south east. The proposal site is located sufficiently distant from these properties so as not give rise to unacceptable loss of amenity in terms of noise, disturbance, and privacy.

Flooding

- 6.28 At the time of the 2010 appeal the site was noted as lying within Flood Zone 1 where there would normally be no fluvial flood risk and consequently no requirement for Flood Risk Assessment (FRA).
- 6.29 Although the appeal Inspector acknowledged that rural access roads in the vicinity may be subject to temporary flooding, inhibiting access to the site, in his view this did not warrant refusal of the application on the grounds of flood risk. The Inspector considered that the 'threat to life from river flooding would be insignificant'. Since the initial consultation response in September 2016 the Environment Agency has re-assessed the local flood plain and lowered the threshold for flood risk on this site.
- 6.30 While there is recent evidence of flooding in the surrounding area, no records are available of actual flooding within the site. While caravans can be vulnerable to

floodwater they are generally raised off the ground allowing flood waters to flow beneath them and can if necessary be raised further above ground level. Furthermore the caravans are located within the highest part of the site which would act as an 'island' refuge during extreme flood events.

- 6.31 The Environment Agency has agreed that flood risk mitigation measures, comprising an 'Emergency Flood Plan' would be acceptable and a planning condition is recommended.
- 6.32 The Sequential Test requires development within areas at high risk of flooding to be considered if no other options are available. There are no suitable alternative sites currently available to the resident Gypsy family. In addition to the undisputed need in this particular case, the level of need in the Borough is also considerable and this weighs heavily in favour of the applicant.
- 6.33 Para 103 of the NPPF describes how an 'Exception Test' can be applied to include safety measures that could be introduced to ensure access and escape routes to the site. In addition in this instance the caravans have a raised 'free-board of approximately 600mm and the applicants have 'signed-up' to EA flood alerts.
- 6.34 It can be concluded that subject to the imposition of the condition as proposed above it would be appropriate to grant permission on a permanent basis.

Ecology Impacts.

- 6.35 This is an existing site with no known ecology issues.

7.0 CONCLUSION

- 7.1 It is acknowledged that the continuation of this site use will inevitably have a negative visual impact on the character and appearance of the rural area. However policy allows that subject to strict control and in order to satisfy the Borough's responsibility to satisfactorily accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, Gypsy sites can be acceptable in the countryside.
- 7.2 In this instance the development would be screened from public view and would not result in further encroachment into the countryside. On such basis and having regard in this instance to the absence of landscape designation, visual harm can be mitigated.
- 7.3 Although concern has been raised by the Environment Agency in relation to the vulnerability of the site to flood risk, they have confirmed that subject to imposition of a safeguarding condition, permission would be acceptable.
- 7.4 The applicant has provided a satisfactory level of information regarding his family's Gypsy status and their need to live together as an extended family unit. Grant of permission will address the identified personal need and assist in meeting the unmet need for viable Gypsy and Traveller accommodation.
- 7.5 Grant of permanent consent is deemed acceptable for the reasons given above and would comply with the Development Plan (Maidstone Borough-Wide Local Plan 2000) with National Planning Guidance and with the Final Draft Maidstone Borough Local Plan. Material circumstances indicate that subject to imposition of conditions permanent planning permission should be granted.

8.0

RECOMMENDATION

Grant permanent planning permission subject to the following conditions.

(1) 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; permitted and an exception has been made to provide accommodation solely for Gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites. Should the use hereby permitted cease, or the site be abandoned, the owner of the land shall ensure that all caravans, hard-standings, structures, materials and equipment brought onto the land in connection with the use, shall be removed in accordance with a scheme of work to be submitted to and approved by the Local Planning Authority.

Reason: The site is in the countryside where such development is considered to cause visual harm to the character and appearance of the countryside and the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

(2) No more than two static caravans and two tourers, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

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

(3) No commercial or business activities shall take place on the land including the storage of materials or storage, stationing or parking of any commercial vehicle over 3.5 tonnes gross unladen vehicle weight;

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

(4) If the use hereby permitted ceases, all caravans, structures, equipment and materials brought onto the land for the purposes hereby permitted including areas of hardstanding, stable blocks and utility rooms shall be removed within 3 months of cessation;

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

(5) Within three months of the date of this decision notice, the applicant shall submit a 'Flood Emergency Plan' to the Local Planning Authority. The Plan shall address measures that will be put in place in the event of flooding to ensure the safety of site residents and measures to allow the free flow of flood waters within the site. Once approved, the approved the 'Plan' shall be made capable of implementation within 2 months and adhered to during the life of this permission.

Reason: The site lies within a flood risk area and such measures are necessary in the interests of public safety and the control of flood water.

(6) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no other fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of residential amenity.

(7) No external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity

(8) The development hereby permitted shall be carried out in accordance with the following drawings and documents and in accordance with any drawings and or documents subsequently approved in respect of the above conditions:

Site Location Plan 1:1250;

Supporting Statement dated 20th June 2016 Heine Planning.

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

Case Officer: Jeff Sadler

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