



Heine Planning Consultancy

Alison T Heine B.Sc, M.sc, MRTPI

Tel: 01606 77775 e-mail: heineplanning@btinternet.com

2.2.2022
L1-J19-2020

Gravesham Borough Council
PLANNING
Civic Offices
Windmill St
Gravesend
Kent DA12 1AU

Dear Sir/ Madam

Re: Application for a material change of use of land to Gypsy Traveller site with 3 pitches each with space for stationing of a static caravan, utility block with associated hard standing for parking, with shared septic tank and shared storage of touring caravans (part retrospective)
Mr R Webb

Land off Heron Hill Lane, Culverstone Valley, Kent DA13 0DT

I am instructed to make this application for land off Heron Hill Lane, Culverstone Valley.
I rely on the following documents

EA drainage statement.
Plan 1-location plan scale 1:1250 A4
Plan 2-proposed site plan scale 1:500 A4
Plan 3-proposed utility block 1:100 A4
FFT research 2020/21
Clive Emson auction photo of site.

Proposal

The site is located on the eastern side of an unmade track which leads south from Heron Hill Lane and used to serve Beechenwood Farm but is now blocked off at the gate to this farm. The site is one of several undeveloped plots of land on the slope between Heron Hill Lane and this unnamed track. There are other developed plots on this section of track including other Traveller pitches (The site opposite occupied [REDACTED] for the last 20 years or so, The Robins and those granted on appeal in 2020) and a house called Brecon. Other plots are used for leisure purposes/ small holdings. Further to the west on the other side of a shallow hill is Leafy Lane where residential properties back onto the plots on the western side of the track.

Consent is sought for 3 pitches for occupation by Gypsy Travellers each with a mobile home, small utility block measuring 5m x4m and under 4m high and hard standing for off road parking, with shared use of a septic tank and shared storage space for bins/ touring caravans. The site is accessed off a no through track leading off Heron Hill Lane at the eastern end of the lane.

The application is part retrospective in so far as the site has been cleared of scrub woodland and reprofiled. There has been some alterations to the site contours this has been done mostly with materials on site. No materials have been removed and only a small amount imported. The levels have been separated with retaining walls built using concrete post and panel fencing.

The site measures 29m wide and 60m deep. It extends to 0.18 hectares. It is in a woodland location. The site has been cleared of most of the scrub vegetation and regenerating birch/hazel trees. There were also problems with fly tipping and asbestos and other waste had to be removed from the site. Three thin birch trees are retained on the site boundary. I provide a photo from the Clive Emson auction catalogue of how the site looked prior to sale. This shows some regenerating woodland next to the track and tree fall elsewhere within the site which is most probably due to the thin soil cover over the chalk base. There was little woodland on the slope. Site works have cut into the woodland bank at the eastern end of the site and whilst this may have severed roots of trees in the adjoining woodland the harm is minimal given the shallow soil layer and fact most of the reprofiling is carried out within the chalk base layer.

This is a sloping piece of ground. The land slopes from higher ground to the east down to the lane on the western boundary. The difference in levels down through the site is estimated at between 4-5 m. Three terraced areas have been created with a graded internal access track.

The site is enclosed with 1.2m high timber post and 2 rail fencing. It is proposed to continue this across the site frontage and install two 12ft timber 5 barred farm gates.

It is proposed to plant with hedging plants of local provenance in front of the concrete post and panel retaining fences. The hedging would comprise a staggered row of 60% mix of hawthorn/blackthorn and 40% mix of holly, hazel, hornbeam and would connect with a 3m wide landscape strip down the northern side of the plot. Given the chalk ground (characterised by alkaline, shallow, free draining soils) and the available space, it is proposed to plant this area up with low growing shrubs from a selection of berberis, holly, euonymus, cotoneaster, syringa, viburnum, yew and pyracantha to encourage understorey planting which would compliment the woodland planting. Plants 45-50cm high would be planted randomly at 1m centres in groups of 3-5 of the same species at a rate of approximately 3 plants per 5 sq. m, and protected with spiral guards.

In addition small trees chosen from feathered whips 1.2—1.8m tall would be planted at 3m centres across the site frontage and across the rear (eastern) boundary. These would be selected from: *Corylus Avellana* (Corkscrew Hazel), Field Maple, *Malus* (crab apple), *Sorbus Aria* (Whitebeam), *Euonymus Europaeus* (Spindle), *Carpinus Betulas* with shrub understorey selected from the list above.

The 3m wide landscape strip down the northern boundary would provide a wild area for food and shelter for smaller animals alongside the adjoining scrub woodland. Once planted this area would be left undisturbed to re-vegetate/ regenerate naturally with existing woodland plants eg brambles, ivy, nettles, hazel, yew, bluebells and other native woodland flowers to provide a valuable wildlife habitat and protective cover for nesting birds and small mammals. Log piles would be created from any dead and decaying wood to provide habitats for fungi,

invertebrate, reptiles and amphibians. In addition small insect box would be hung on the external walls of each of the utility blocks.

Use of the site as a private residential Gypsy-Traveller site would require

- access from surfaced roads
- hardstandings for caravans and 6m separation distance between occupied caravans
- parking space for cars
- electricity and drinking water supplies
- washing facilities
- sewerage disposal
- refuse collections
- fire extinguishers
- boundary treatment

These are all provided/ capable of being provided. The site lies in an area of similar plotlands where similar services have been provided. Provision would be made for refuse bins just inside the site entrance. The applicants would live in their caravans. The design and appearance of touring and static vans can not be prescribed as these can be changed just like a motor vehicle. The caravans occupied by the applicants on this site are typical of most Gypsy-Traveller sites. These are low level structures which provide compact living accommodation. Mobile homes are often relied on to provide low cost accommodation in rural areas for essential workers. There are other mobile homes in the area including a long established site at The Robins, another site almost opposite this application site and the recently approved Traveller sites to the west. The proposed day rooms would be modest in size with a footprint 4m x5m and 4m high

No business use is proposed and permission could be condition to ensure this. It would also be possible and acceptable to limit the size of vehicles using the land to nothing larger than 3.5 tonnes ie small pickup/van size.

Any lighting would be limited to low level domestic PIR units on the caravans and day rooms and at the entrance to each plot.

The hard standing for the access, shared driveway and yard areas would be constructed using Type 3 limestone sub base which is similar to Type 1 but with reduced fines to allow water to freely drain as a permeable sub base. This material is screened as a blended 0/50mm and is recommended for use with SUDS (sustainable urban drainage systems) and conforms to the Ministry of Transport Specification Clause SHW 805. The top layer will be laid using clean sorted crushed stone/ gravel 2-6mm to retain porosity. A concrete base will be laid for the utility blocks and mobile homes with roof run collected in large water butts for reuse on site (eg for water plants, cleaning vehicles and caravans etc)

The site is screened by surrounding woodland between the plot and the public footpath to the east. The development would be visible from the track but as noted above the site is at the end of a cul de sac track which is blocked at the gateway to Beechenwood Farm. Few people would be expected to pass the site on this section of the unmade road. The site would also be glimpsed through woodland from the public footpath leading off Heron Hill Lane on higher ground to the east but views from this path would be filtered by woodland just as it is for other houses and caravans in this area. There would be no long distance views. With time there is no reason to

believe the development would not be assimilated into the woodland landscape as has been possible across the Culverstone Valley.

Gypsy Status



[REDACTED] strong connections to the west Kent area and have been looking for land to buy and settle on for many years. Whilst they rely on their Gypsy-Traveller status it is not necessary to prove Gypsy-Traveller status as a matter of policy. Proving Gypsy-Traveller status is only necessary if it becomes necessary to include personal circumstances as a material consideration.

Personal circumstances would only need to be considered if the Council finds a departure from policy and/or other harm and then finds that the other material considerations are insufficient to outweigh the identified harm. As this would be inappropriate development in the Green Belt the personal circumstances of the intended occupiers will be an important material consideration.

The Council should first consider if any harm identified is limited and capable of being outweighed by the general material consideration that would apply to any Gypsy-Traveller

family. These material considerations include need (national, regional and local) lack of suitable, acceptable, affordable, alternative sites and lack of a five year land supply

The Council should then consider if weight is to be attached to the personal needs of the extended family.

- a- They still travel for an economic purpose and meet the definition of Gypsy in PPTS 2015.
- b- They are homeless with no where lawful to live in their caravans
- c- They have strong connections to kent and have all travelled in this area for work and/ or have family links to this area.

Relevant Planning History

I can find no recent planning history for this piece of land.

Compliance with Policy

Main policy guidance is in

NPPF

PPTS

The site is part of the Culverstone Valley Estate and is within the Green Belt. There is no dispute the proposed development would be inappropriate development and contrary to national policy and local policy CS02. The woodland on this side of Heron Hill is not protected or part of any ancient woodland. The site is not part of any protected wildlife zone and that land is outside the AONB. There are no issues with flooding. Use would be made of one of the main roads serving the Culverstone Valley Estate. The site does not immediately adjoin any other property. It is separated by woodland from a house on higher ground and by the track from development on the facing side of the track.

The site is located within the Harvel Wooded Downs Landscape Character area where the main characteristics are the varied topography with steep valley sides and plateaux, ancient woodland, chestnut coppice and small paddocks and pasture, with occasional farmsteads, residential plots and small holdings within the woodland. The LCA seeks to conserve the woodland and narrow lanes, soften new development using characteristic landscape elements and ensure new development is of appropriate designs and materials.

The main policy issue to be considered is whether the definitional harm arising from inappropriate development in the Green Belt (loss of openness) and any other harm, including encroachment into an area of countryside and impact on the character and appearance of the area as a result of the loss of woodland and laying of the land to form 3 pitches with caravans, hard standing, small structures and associated activity, is clearly outweighed by other material considerations such as those listed in para 24 PPTS.

The May 2020 appeal decision for land to the north-west of this site is relevant. The key points to note are as follows:

- 78% of the Borough is Green Belt
- the CVA area is characterised by other residential developments
- this part of the CVA benefits from woodland screening
- there is scope for planting within the site and biodiversity mitigation.

- the scale of the proposed structures are modest and single storey unlike the substantial houses on many of the developed plots in the CVA.
- the site is not protected by a TPO and as with other parts of the woodland appears to have been cleared in the past and was characterised by self seeded birch trees similar to those on the adjoining plots.
- there is a woodland buffer between the site and the Ancient Woodland to the north
- concerns about lighting and drainage could be addressed by condition. There is other activity and dwellings in the woodland/ valley area
- the site is a short drive from services and facilities in Culverstone. It is not physically isolated or remote. The land is lightly trafficked and suitable for motor vehicles.
- given the number of other residential properties locally the proposal for an extended family would not impact on Culverstone Green or the CVA.
- the proposed development would not impact on the amenities of nearby residential properties due to proximity or overlooking and as no commercial use is proposed there is no reason to believe it would add unduly to noise or disturbance in this part of the CVA.
- sufficient space is provided for off road parking/ turning of vehicles on the plots and the shared area next to the lane.
- there is a substantial need for more pitches and an immediate shortfall. The council does not have a 5 year supply of sites in line with PPTS and here is uncertainty how provision will be made within settlement boundaries.

There has been slippage in the preparation of the Local Plan since the 2020 appeal decision was issued. In 2020 the council anticipated that the emerging Local Plan with Traveller site allocations would be adopted in early 2022. On checking the Council website the emerging Local Plan does not appear to have progressed beyond the Reg 18 stage in 2020. It could be several years before any site allocations are agreed, submitted, examined, approved and implemented. As noted at para 90 the Council has not had a criteria based Traveller policy since 1994 and there has been 'persistent and grave failure to plan for the needs of gypsies and travellers in the borough'. This situation is not helped by the failure of most other Kent authorities to adopt a site allocation policy and meet need arising or, the unwillingness of some to even acknowledge that they have a need to find more sites. In some cases such as Maidstone, recent need assessments have identified a shortfall too large to address in the emerging Local Plan review. The situation in Greater London is no better and is compounded by the pressure to redevelop large socially provided sites for housing such as Thistlebrook in Greenwich.

Few Planning Authorities in the SE region have addressed the need for more sites. The matter was considered by FFT in study published in 2020. According to the July 2019 caravan count 13% of caravans were on unauthorised land and in 2019 only 8 local authorities out of 69 local authorities in SE England had identified a 5 year supply of specific deliverable sites for Gypsy-Travellers. The situation has got worse, not better, since 2016 when they did a similar study. The January 2020 caravan count data has since been published. This confirms that the number of caravans counted on unauthorised developments in England has increased to 2022 but with 95 fewer caravans on unauthorised encampments. In January 2020 12% of caravans counted were on unauthorised land. In 2021 FFT published a further report which found that in October 2020 there was only 59 pitches available on any socially provided sites in England and at least 1696 households on waiting lists. FFT were aware that the reason some pitches were vacant is because the sites were not fit for occupation. Recent research by FFT has demonstrated that

there are few vacancies on socially provided sites and most authorities in the SE Region have failed to address the needs of Travellers. I attach copies of both reports.

Para 16 of PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green belt and any other harm so as to establish very special circumstances. This is repeated in para 24. This test is in two parts. First there is the need to consider the best interests of the child. Then it is necessary to consider if there are other material considerations in addition to those listed. However this policy is discriminatory in so far as it does not appear in NPPF/ PPG for other residential developments in the Green Belt. In other parts of the country appeal decisions have established that unmet need alone is sufficient to justify new housing in the Green Belt.

Para 22 of PPTS requires applications to be determined in accordance with the development plan.

Para 23 of PPTS requires applications to be assessed in accordance with the presumption in favour of sustainable development. Para 13 lists how sites can be economically, socially and environmentally sustainable. There is no reason to believe issue is taken with any of these points. Consent is sought on behalf of an extended family who are homeless and want to have a base where they can live when not travelling.

Policy H of PPTS sets out the relevant issues for consideration when determining planning applications for traveller sites;

- Existing level of local provision and need for sites
- Availability (or lack) of alternative accommodation
- Other personal circumstances of applicant
- Locally specific criteria used to guide allocation of sites should be used to assess applications that may come forward on unallocated sites
- Should determine applications from any travellers and not just those with local connection

Para 24 lists the issues (key other material considerations) to be considered when determining applications.

Para 25 states that new sites are to be very strictly limited in open countryside away from existing settlements or outside areas allocated in the development plan. LPAs should ensure that sites in rural areas respect the scale of and do not dominate the nearest settled community, and avoid placing undue pressure on local infrastructure. This site is part of Culverstone Valley. It is away from the settlement of Culverstone Green but it is part of the plot land community in the woodland. This is a mixed community of houses and caravan plots. Additional households will help retain and sustain existing services including the shop and school in Culverstone.

NPPF advises LPAs that sustainable transport solutions will vary from urban to rural areas.

With regard to local policy CS17 of the 2014 Gravesham Local Plan Core Strategy it is to be noted that this was informed by a now out of date need assessment. It is not an allocation policy. The policy seeks to meet the needs of Travellers but fails to do so. Safeguarding existing sites does not address future need. It is far from clear how many new pitches the Council

anticipated would be delivered by extending existing sites in urban areas. The Council has still failed to determine its own 2015 application to intensify use of the Springfield Rod site to meet household formation arising from this site. It is far from clear how realistic it was to anticipate that sites would come forward in urban areas and rural settlements inset from the Green Belt. The policy provides little / no guidance for any one looking for a suitable site. It does not preclude sites in the Green Belt and is not compliant with PPTS which is supportive of sites on the edge of settlements. In short this is a very inadequate policy.

Turning to the overall balance, the matters which go against the development are

- inappropriate development in the Green Belt with associated loss of openness to which substantial weight.
- localised harm to the woodland associated with the loss of some vegetation / trees and proposed site works which will encroach into this semi rural location and result in localised harm to the woodland setting to which lesser weight should be attached given that the woodland and landscape are not protected by any statutory or national designations.
- work has commenced to clear the site in advance of permission being sought and this amounts to intentional unauthorised development.

The matters which support this application go beyond personal circumstances and unmet need both in Gravesham but also within the SE region. It also includes the extent of Green Belt in the district, the fact this is a plotland area and a developed part of this Green Belt which offers a sustainable location for further residential development, failure of policy to address need and the absence of an up to date need assessment, and the fact concerns to planning could be addressed by condition. To this must be added the best interests of the child to which no lesser weight is to be attached. In other words, the best interests of the child balance out the substantial weight attached to inappropriateness.

When carrying out the balancing exercise I am of the opinion these other considerations clearly tip the balance in favour of this development. Permission is sought on a permanent basis for any Gypsy Traveller and it is considered that there are good reasons to support this. This site would meet a need for an extended family who have no where to live and who have strong connections to Kent. The proposal would help address a need that currently exists in this part of Kent. There are no alternative pitches that are available for these families. However, in the alternative the family would accept a temporary / personal permission.

It is argued that the overall balancing exercise supports this development. If this is accepted, refusal of planning that can be considered acceptable on the basis of very special circumstances, would fail to foster good relations between the applicants and the settled community and would offend the principles of the Equality Act and PSED. This adds further weight in support of permission.

I look forward to receiving your decision.

Yours faithfully

Mrs A Heine