

Part retrospective application for 1no pitch Gypsy/Traveller site including 1no mobile home, hardstanding, fencing and installation of septic tank.

Land off Heron Hill Lane, Culverstone, Meopham

Planning Statement

1. Introduction

This planning statement also incorporates a brief Design & Access Statement to assist in the support of the planning application for a part retrospective application for 1no pitch Gypsy/Traveller site including 1no mobile home, hardstanding, fencing and installation of septic tank. Please note that where relevant the Design & Access statement has been prepared in accordance with the requirements set out in The Town & Country Planning (Development Management Procedure) (England) (Amendment) Order 2013

2. Site description and context

The site is located on the Eastern side of a track which leads from the South end of Herons Hill Lane. The lane was previously used as an access point for Beechwood Farm, but this is now no longer in use and is blocked off with a gate. It is a lane which has sporadic development consisting of residential property, specifically a property named 'The Robins.' There is also a property known as 'Brecon.'

To the west of the site is an area called 'Leafy Lane' where there are several residential properties which are set back onto the plots of the western side of the track.

3. Proposal

This application seeks a 1no Gypsy/Traveller pitch consisting of 1no mobile, 1no tourer, 1no utility block with associated hardstanding, fencing and installation of a septic tank. The utility block is 5m x 4m and there is already hardstanding on site which will be replaced with a better-quality finish. There is plenty of space at the front of the site for the storage of bins and the gate has been set back 6m from the track to enable vehicles to access and exit the site without blocking the land which is a no through road.

The site is tiered in nature. The front tier will be used for parking of 2no cars and a touring caravan, the second tier will be used for the siting of the static mobile home and utility block and the upper tier will be a buffer zone where no development will take place and will be used as a green space.

The application is only part retrospective in nature due to the fact that the land has been cleared and tiers put in place. The land levels have been included and the report was commissioned by the neighbouring plot but commissioned to include this application site as well. The site is in a woodland location. When the sites came up for auction with Clive Emerson, the photos showed that some of the trees had been pushed over and damaged, so it was felt safer to clear the site for which there are no TPO's or ancient woodland designation.

We have kept the upper tier clear so that the trees can regenerate, and new native species can be put in. The land slopes from higher ground to the East of the site down to the lane on the western boundary where the difference in land levels is estimated at 4m.

The site will be enclosed using 2m high wooden post and rail fencing with a 12ft wooden five barred farmer's gates.

We propose that the site be soft landscaped using a mixture of native hedgerow and trees around every boundary. This will not enclose the site fully but gives it a less urban look than using high fences or walls. Any planting should be subject to a condition that it is maintained for the duration of the proposed use. All planting will be of a mature nature rather than using small plants/shrubs so will provide instant soft screening.

To the rear of the site and in the upper tier, we intend to install a natural wildlife area which will encourage valuable wildlife habitat, birds, and small animals. Log piles will be used to provide a natural habitat for reptiles and amphibians. We also intend to erect bird nesting boxes to the front and rear of the site.

The site is a typical layout for a Gypsy/Traveller site and will only have low level buildings and no large dayrooms. Within close proximity are 'The Robins' and another site which is opposite the application site. These are long established sites with mobile homes. There is no business use proposed and this can be limited by an appropriate condition.

Any lighting will be of a low-level domestic kind not unlike typical PIR units on the mobiles and dayrooms and at the entrance to each plot. The hardstanding is a high-level material which is permeable to allow any surface water to filtrate through into soakaway crates. The water will then be used on site as part of a rainwater harvesting system. Further details of this are included within the SuDs report.

The public views are minimal and are based off a public footpath to the east of the site. The site may be seen through woodland from a public footpath leading off Heron Hill Lane but again this will be minimal. There are no long-distance views. Given that the soft landscaping will be made up of large mature plants, the site would easily blend in with the woodland landscape.

The applicant has a strong connection to the Wets Kent area, and they have been looking to purchase land and settle on land for many years. They have a valid Gypsy status which has been detailed in the attached report which should not be uploaded to the public domain but is clear for use by officers during the determination period.

The LPA will need to focus on whether harm is 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, lack of alternative sites and a lack of five-year supply. The LPA should also consider whether weight should be attached to the personal needs of the family. And whether:

1. They still travel for economic purposes and meet the definition of a Gypsy according to the PPTS 2015.
2. They are homeless with no lawful place to live with their caravan.
3. They have strong connections to Kent and have all travelled in the area for work and have family links to this area.

4. Relevant Planning History

Although we cannot find any planning history, aerial photos and land registry confirm that the space was used as a residential site and land registry shows it as being known as 'Betsy's Bungalow.'

5. Considerations:

NPPF

We accept that the NPPF paragraph 143 states that 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 144 further states that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'

The development of the site as proposed would not be inappropriate development as the site is already developed and has been approved as residential previously, albeit many years have passed since. The applicant is not extending on open Green Belt land or indeed creating an entirely new site. Therefore, this proposal is compliant with the above national policy. The NPPF highlights the openness (i.e., absence of development) of the Green Belt as its most important attribute and the development of the site would not result in the loss of openness. The application site will be completely screened by natural screening and no closed board fencing will be used. The current fencing will be removed and replaced with wooden post and rail and mature native hedging. It is accepted that a limited amount of development would result in limited harm, therefore the proposal would not increase the harm to the openness of the Green Belt.

The Planning Policy for Traveller Sites (PPTS) (2015)

The Planning Policy for Traveller Sites (PPTS) (2015) states the following:

Policy E: Traveller sites in Green Belt

15. Inappropriate development is harmful to the Green Belt and should not be approved, except in exceptional circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. 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 to establish exceptional circumstances.

The site in question and the applicant do have exceptional circumstances which if not approved would lead to a detrimental effect on the applicant who has been left homeless after being thrown off the site, he was previously occupying. He has brothers, sisters and his father in close proximity and nobody else to depend on. Therefore, they are compliant with the above.

16. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.

The land in question has already been developed which is required due to exceptional circumstances. The applicant would accept a temporary permission to enable him to settle but he simply cannot live by the road when there is a clear and present danger to him. It is therefore felt that the applicant is compliant with the above.

Policy H of the same document (and paragraphs 25 to 26) states the following:

25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

There would be no excessive car movements as the lane is a no through road, no extra pressure on the local infrastructure and no domination of the nearest settled community above what is already there.

26. When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls, or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

The land is pre-developed, and this can be seen on the aerial photos of the site and through the Land Registry history. The site would not see any new walls or fencing and in fact, some fencing is to be removed. A landscaping condition can easily be applied should the LPA feel it necessary and there are green areas already in existence. Therefore, it is felt that the applicant is compliant with the above.

Local Plan Policy

In May 2020, an appeal was allowed for land to the northwest of this site. It carries weight as it states:

- 78% of the Borough is Green Belt
- The CVA area is characterised by residential developments.
- This part of the CVA benefits from woodland screening.
- There is huge scope for soft landscaping and biodiversity mitigation.
- The scale of the application site and proposed structures are all single storey and not as large in scale as the substantial houses on many other developed sites in the CVA.
- It is not on designated land with regards to protected trees or woodland
- There is a natural woodland buffer between the site and the woodland to the North.
- There is a substantial need for more pitches and the LPA have an immediate shortfall. The LPA does not have a 5-year supply of sites in line with the PPTS and there is much uncertainty as to how the provision will be met within settlement boundaries.

- There is sufficient parking.
- The site is a short drive from the available services of Culverstone.

In terms of other Green Belt harm, for a proposal of only one pitch, the development would result in a minimal loss of openness to the Green Belt arising from the presence of caravans, vehicles and associated hardstanding and activity. The applicant has put forward other considerations which amount to exceptional circumstances to outweigh the identified harm to the Green Belt.

Policy H of the PPTS requires local planning authorities to attach weight to the following matters, when considering applications:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls, or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

The application is compliant with all the above and this should have considerable weight.

The proposal is therefore considered not to conflict with paragraph 174 of the Framework. Regarding Policy H of the PPTS, the site does make effective use of previously developed (brownfield) land as can be seen from the aerial views, existing hardstanding prior to the development and previous approved planning application. The soft landscaping and replacement fencing has been well planned and landscaped in such a way that it positively enhances the environment and increases its openness. There is adequate space for play areas for children, with no high fences or walls.

The LPA has faltered on the Local Plan since the May 2020 appeal decision discussed above and the in 2020 the LPA anticipated that the emerging Local Plan with traveller site allocations would be adopted in early 2022. This has still not been agreed or come into fruition and could take several more years.

It is noted in paragraph 90 the Council has not had a criteria-based traveller policy since 1994 and there is a persistent and grave failure with most of Kent authorities to adopt a site allocation policy. They do not meet the need for arising or the severe unwillingness of LPA's to even acknowledge that they need to find more sites. Some LPA's including Maidstone Borough council, have found that the need is so high that it cannot be addressed through emerging plans.

Paragraph 22 of PPTS requires applications to be determined in accordance with the development plan and Paragraph 23 requires that applications be assessed in accordance with the presumption in favour of sustainable development. Paragraph 13 lists how sites can be economically, socially, and environmentally sustainable. There is therefore no reason to believe that issue can arise with any of these points. Consent is being sought for a homeless male who requires a base near to his immediate family where he can live when he is not travelling. Staying at the roadside has become almost non-existent now in the UK due to the new policing laws which is pushing travellers to occupy sites in an unauthorised fashion.

Policy H of the PPTS sets out the relevant issues which should be taken into consideration when determining applications of gypsy/traveller sites:

- Existing level of local provision along with need
- Availability of alternative sites
- Personal circumstances
- Locally specified 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 connections.

Although Paragraph 25 state that new sites should be limited in open countryside, this site is part of Culverstone Valley. It is away from the settlement of Culverstone Green but is part of a plot of land within the woodland. This is a mixed community of houses and caravan plots.

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

Turning to the local policy CS17 of the local plan core strategy, it should be noted that this was informed by a need assessment which is now out of date. It is not an allocation policy, and the policy seeks to meet needs of travellers but has systemically failed to do so in every way.

The policy provides little or no guidance and does not help anyone who may be looking for a new site and should not preclude sites in the Green Belt. It is also not entirely compliant with the PPTS which is supportive of sites on the edge of settlements.

In conclusion, I would argue that the overall balancing exercise should support this application and if the application is approved, it can be limited by the imposition of appropriate conditions such as personal conditions, limit the number of mobiles and landscaping conditions. To give a refusal would fail again to maintain relationships between the applicants, their race and would go against the main principles of the Equality act and PSED. This would then add further weight which should be given in support of the application gaining permission.

Ecology

Grassland habitats with a smaller area of hard standing and grassed areas make up the site.

Grassland habitats can be of significant nature conservation value depending upon their type. Based upon recent air photography the grassland habitats on site appear to be of modest value so they are to be replaced.

If planning consent is granted, the applicant suggests a condition requiring the submission of a detailed design for ecology purposes.

To compensate for the loss of trees, the hedgerows planting proposed on site will be of appropriate native species (this again could be controlled via the imposition of a planning condition). The layout plan includes scattered tree planting this would contribute to the biodiversity value of the site.

If planning consent is granted, we would be happy to accept that a condition be attached which requires the submission of a detailed landscape plan and a lengthy habitat management plan. Given the condition and location of the site, no significant ecological issues are anticipated, and the proposal is considered sufficient.

Trees

There are trees to the North of the site which are of high amenity value. These trees are not protected by a Tree Preservation Order, but the applicant has offered to plant several mature trees across the site and provide a buffer zone to the North to prevent any damage of further development.

Highways

The proposal is for a single caravan site with off-road parking, which will use an existing access off the lane. The access will be formalised, and the gate set back so that a car can rest fully off the carriageway if necessary. The hedges either side of the access will be set back to improve the visibility.

There is sufficient room for parking and turning within the site. The site plan and wider area shows that it would not be possible to access services and facilities by foot or cycle or if you were to use this method of travel, it would not be the preferred route to walk or cycle. However, there are other residential properties along the lane and there is only one family so the fact that the site will only be a 2nd car dependent family, this should carry weight.

Flood Risk/Drainage

The site is located within Flood Zone 1, which has an extremely low probability of flooding. The extent of hardstanding has been reduced significantly so there is considered to be adequate areas around the hardstanding for surface water to soak away. No significant flood risk issues have arisen from the proposed development.

Human rights

The European Convention on Human Rights should be considered as an integral part of local authorities' decision making – including its approach to the question of what material considerations in planning cases are. LPAs should consider the consequences of refusing or granting planning permission on the rights of the individuals concerned, both Gypsies and Travellers and local residents.

Strasbourg case law places particular emphasis on the special, and vulnerable, position of Gypsies as a minority racial group. In reaching planning decisions on individual cases there is therefore an obligation to give special consideration to the needs of Gypsies and their different lifestyle.

Against this background, recent planning case law instructs those personal circumstances relating to the needs of Gypsies, even though potentially commonplace, are capable in law of being regarded as a 'very special' factor. Weight should be given to the health and educational needs of children.

Equality Act 2010

The Act does not define race. However, case law has established that Roma gypsies and Irish travellers are covered by the protected characteristic of race for the purposes of the Equality Act 2010. Local authorities have a duty under section 149 of the Act to actively have regard to the need to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations.

Children Act

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the recent judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children. Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

Status of the applicants

The applicant (and proposed residents) are members of the Gypsy Traveller community and have Gypsy Status for planning purposes and this has never been in dispute. There will be no change in the family members on site so their G & status should remain established.

Whether Very Special Circumstances exist which justify the grant of permanent or temporary planning permission

It is not felt that this application is entirely inappropriate development in the Green Belt. However, it is necessary to consider whether any 'very special circumstances' exist to justify the grant of planning permission for the proposed scheme. In support of the application the applicant states the following:

- The new pitch would be accessed via the existing access.
- The proposed pitch is for the applicant and his partner and child.
- This application would allow the family to continue to live at the site, provide mutual care, support, and relieve current overcrowding on the previous site (which could not accommodate the required additional caravans and meet Licensing requirements for spacing etc.)
- The site is not completely remote from the village (semi-rural location).
- It is important that this family continues to have a stable place to live.
- The Human Rights act is engaged in this situation, and any decision needs to be considered with a view to the HR Act Article 8 particularly.

In this application, the case for exceptional circumstances rests on the general and personal need for the site. It should be considered that the need for a site as a single issue is sufficient to clearly outweigh the harm to the Green Belt. There is a specified need for support within the required caravan that could add weight in favour of the application in accordance with national guidance. The personal circumstances of the occupiers of the site and the general need for a site and connection to the area clearly outweigh the harm to the Green Belt identified above.

Conclusion:

The weight to the harm to the Green Belt would be extremely limited given that the applicant has supplied 'exceptional circumstances' in terms of national planning policy. It is also argued that although the site is in open countryside where the PPTS states that new Traveller site development should be 'very strictly limited', the site is existing and not a completely new development. Although the LPA can supply in their own words, 'a healthy five-year supply,' there are no alternative sites available for the applicants that the authority can put forward. The considerations that are in favour of the application are a lack of alternative sites for the applicants and personal family circumstances and the exceptional circumstances that exist. Heavy weight should therefore be given and be sufficient to clearly outweigh that harm.

As stated previously, the applicant would accept a temporary permission but would like to maintain the 'status quo' of being able to protect his family and allow them to grow on site with him where he now resides.