

MC/13/3335

Date Received: 2 January, 2014

Location: Buddys View, Perry Hill, Cliffe, ME3 7TX

Proposal: Change of use of land to provide extension to existing caravan site for siting of 2no static caravans

Applicant: Mr Ball

Agent: Mr Purcell A.N.Purcell 23 Holly Road Wainscott Rochester Kent ME2 4LG

Ward Strood Rural

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 2 April, 2014.**

**Recommendation - Approval with Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

BUDVIEW3/001, 002A, 003 and 004

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The use hereby permitted shall be carried out only by Mr Frank Ball or his descendants and when the premises cease to be occupied by the said individuals the use hereby permitted shall cease.

Reason: To take account of the special circumstances of the submitted application and to regulate and control any subsequent use of the premises in the interests of amenity in accordance with Policy H13 and BNE25 of the Medway Local Plan 2003.

- 4 Within one month of the use ceasing in accordance with condition 3, all buildings, structures, caravans, materials and equipment brought onto the land for the purposes of or ancillary to that use shall be removed, and the land shall be restored to its former condition.

Reason: To protect the character and appearance of the countryside in accordance with policy BNE25 of the Medway Local Plan 2003.

- 5 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft). All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 6 No development shall take place until elevation and floorplan drawings at a scale of 1:50 or 1:100 for the 2 caravans hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved plans and retained thereafter.

Reason: In the interests of visual amenity in accordance with policy BNE1 and BNE25 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

The application seeks consent for a change of use of the land to provide an extension to the existing caravan site for the siting of 2 static caravans. The caravans would be located to the south of the existing caravans in between the Llama Paddock and an existing stable block. The site is set some distance from the road and accessed via the existing track. Each of the caravans would measure 22 metres in length and 7 metres in depth. The caravans would be broadly located towards the eastern edge of the site with a conifer screen and access gate towards the western side. Additional landscaping is also shown along the eastern boundary. The application documents outline that the caravans would be occupied by children of one of the existing residents (the applicant).

## **Site Area/Density**

Site area: 0.12 hectares (0.296 acres)  
Site density: 16 dph (6.7dpa)

## Relevant Planning History

### Original Consent for the Traveller Site

APP/A2280/C/2001786, Appeal of Enforcement Notice Allowed, 5 September 2005

The outcome of this appeal is summarised as follows: -

- The grant of planning permission for the uses of the land as a caravan site for gypsies (as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1990 (as amended) and the use of land for agriculture and/or the keeping of horses. The precise areas covered by these uses are outlined in the plan attached to the Inspector's appeal decision. In broad terms the caravans are required to be stationed to the north east of the site and the rest of the area is defined as agricultural and/or the keeping of horses. The plans submitted with the application identify the extent of land covered by the lawful use.
- No more than 5 caravans can be stationed at the site – at least two of which must be touring caravans.
- The access road and hard standing areas at the site could remain without causing an unacceptable encroachment into the rural area.
- The appeal decision is conditioned to require that once the occupation of the site by gypsies ceases all buildings, structures and caravans must be removed and the land should be restored to a state fit for agriculture within one month of that use ceasing.
- A landscaping scheme was required to be submitted, approved and implemented.

### Other Relevant Applications

MC2006/1201	Retrospective application for the construction of a single storey utility building Approved 20 October 2006
MC2006/1567	Part change of use of land to residential and siting of 1 residential unit and part change of use of land for grazing of llama. Re-siting of one shed to proposed grazing area and erection of two new sheds within the residential curtilage (Part Retrospective) Refused, 19 July 2007
MC2007/0476	Variation of condition 1 of appeal decision APP/A2280/C/05/2001786 to permit one structure outside the legal definition of a caravan Refused, 28 June 2007
MC2007/1973	Certificate of lawful development - existing - for the use of the land for the continued stationing of one mobile home, not exceeding 60ft (18.288m) in length, by 20ft (6.096m) in width and having an overall height (measured internally) of 10ft

(3.048m) and complying in all other respects with the provisions of Section 13 of the Caravan Sites Act 1968  
Approved, 16 November 2007

MC2007/1975 Certificate of lawful development - proposed - for the use of land for the stationing of one mobile home. In addition to the one mobile home already in place - dimensions not exceeding those set in Section 13 of the Caravan Site Act, 1968  
Approved 16 November 2007

MC2008/0007 Construction of a block comprising four stables and tack/store room  
Approved 17 April 2008

### **Representations**

The application has been advertised on site and by individual neighbour notification letters to the owners and occupiers of neighbouring properties. Cliffe & Cliffe Woods Parish Council has also been consulted.

**4 letters** have been received raising the following objections:

- Proposed caravans would be outside of the area previously approved.
- No reasoning provided for extending the site.
- Expansion could lead to future problems.
- Loss of high quality agricultural land.

All other matters raised not listed above are non-material

**Cliffe and Cliffe Woods Parish Council** object to the application raising the following concerns:

- Application expands the area identified for the use in the appeal decision.
- Development expands the use closer to Perry Hill / Cooling Common which reduces the viability of the remaining agricultural field.
- Users of the bridle way (RS84) along the edge of the site have experienced aggression from dogs on the site.

**Dickens Country Protection Society** object to the extension of the site as this is outside of the original plan that was approved.

### **Development Plan Policies**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 (NPPF) and are considered to conform. Regard should also be paid to the Department of Communities and Local Government's Planning Policy for Traveller Sites March 2012 and the Medway Landscape Character Assessment 2011.

## **Planning Appraisal**

### *Impact on the Countryside and Design*

The site is located outside of the urban area in open countryside. The site is not subject to any other designations and is 'white land' on the proposals map in the Medway Local Plan 2003. Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it maintains and, wherever possible, enhances the character, amenity and functioning of the countryside and it offers a realistic chance of access by a range of transport modes. In addition, Policy BNE25 identifies seven criteria for assessing proposals for development in the countryside, including that the development essentially demands a countryside location such as agriculture, forestry, outdoor or informal recreation. The National Planning Policy Framework (NPPF) states that planning should contribute to conserving and enhancing the Natural Environment (Paragraph 17) and protecting and enhancing valued landscapes (Paragraph 109).

The application involves the extension of an existing traveller site and so this does not relate to a use essentially demanding a rural location. The caravans would be located on existing undeveloped land and even though they are located close to the existing mobile homes and stables it is considered that the development does not maintain and enhance the character, amenity and functioning of the countryside. Furthermore the Medway Landscape Character Assessment identifies the site as falling within section 13 'Cliffe Woods Farmland'. The area is described as being undulating and complex with a mix of arable farmland and orchards. A dominant landscape feature is the poplar shelterbelts. The Landscape Character Assessment identifies Actions for this area to 'conserve and create' including the discouragement of visually intrusive elements. The application is therefore contrary to Policy BNE25 and the countryside protection policies in the framework.

Policy BNE1 of the Local Plan states that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment. Being a mobile home the structure has no particular design merit in itself and, whilst it would be set back from the street and close to existing structures on site, it would cause harm to the character and appearance of the wider area as identified above.

As such the development would therefore fail to conserve or enhance the character and appearance of the countryside and so is contrary to policies BNE1 and BNE25 of the Medway Local Plan 2003.

### *Amenity*

The application site is located sufficient distance from residential properties to ensure that would be no detrimental impacts with regards light, outlook or privacy. Accordingly no objection is raised under Policy BNE2 of the Medway Local Plan 2003.

## *Highways*

No changes to the access of the site from Perry Hill are proposed as part of the application. The plans and application form do not indicate any dedicated parking would be provided for the caravans but the wider site contains ample space to cater for the development. As such no objections are raised with regards highway safety or parking and the provisions of policies T2 and T13 of the Medway Local Plan 2003.

## *Planning Policy for Traveller Sites*

Policy H13 of the Medway Local Plan 2003 covers gypsy caravan sites. This policy states that gypsy caravan sites and travelling showpeople's quarters will be permitted when:

- (i) the site is close to essential local services, including shops, public transport, schools, medical and social services; and
- (ii) the site can be physically contained and adequately screened from surrounding land; and
- (iii) there is compliance with agricultural, landscape, nature conservation and countryside policies; and
- (iv) there is no adverse impact on nearby residential amenity or agricultural interests; and
- (v) access arrangements are of a standard approved by the Highway Authority; and
- (vi) there is adequate provision of power, water and sewerage.

Regard should also be paid to the Department of Communities and Local Government's Planning Policy for Traveller sites. This document contains specific planning policies relating to Traveller sites together with a definition of a gypsy or traveller as being:

*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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*

The submission outlines that relations of one of the existing residents at the site would occupy the caravans. The appeal inspector concluded that the existing residents are gypsies and currently the potential new residents are carrying out traveller work around the country. As such the applicants and future residents of the caravans are considered to be gypsies and so this policy document is relevant.

Policy H of the Planning Policy for Traveller sites document relates to the determination of planning applications for traveller sites. This policy states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (paragraph 20). Applications should also be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this

planning policy for traveller sites (paragraph 21).

Paragraph 22 states that Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- (a) The existing level of local provision and need for sites;
- (b) The availability (or lack) of alternative accommodation for the applicants;
- (c) Other personal circumstances of the applicant;
- (d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- (e) That they should determine applications for sites from any travellers and not just those with local connections

Local Planning Authorities should 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 (Paragraph 23).

Paragraph 24 states that 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.

Paragraph 26 states that Local Planning Authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations.

Due to the size of the site and its planning history, several of the above criteria would not necessarily apply in assessing this application. However, having regard to Policy H13 (above), the application has been assessed in accordance with the NPPF and BNE25. In this regard it was found that the development would be unacceptable on account of its failure to conserve or enhance the character and appearance of the countryside and it is necessary to consider whether other material considerations outweigh this.

The scale of the use of two caravans occupied by the same family would not dominate the community and therefore no objection is raised under paragraph 23. Having regard to paragraph 24, landscaping is shown as part of the proposed development, some already exists and some is proposed for the eastern boundary. It is therefore recommended that if planning permission is granted a condition be

attached requiring the submission and approval of a landscaping scheme.

The latest Medway Gypsy Traveller and Traveller Accommodation Assessment (GTAA) covers the period from 2013 to 2028 and identifies a 5 year requirement of 13 pitches between 2013 and 2018. Paragraph 25 of the assessment states that if a Local Planning Authority cannot demonstrate an up to date five-year supply of deliverable sites this should be a significant material consideration in any subsequent planning decisions. Due to the absence of a 5-year supply it is considered appropriate to grant an approval for this application. However, as the proposal does cause harm to the countryside character of the area it is considered that any permission should be temporary, in that the caravans should be removed and the land restored if they are no longer used.

The applicants have provided details in the submission about the ownership of the existing caravan site. The existing land within the approved caravan site may well lend itself to further caravans in accordance with the appeal decision however it is understood that this is not possible due to ownership reasons and so the additional land is being proposed. On this basis it is considered that a personal permission is also appropriate for descendants of the applicant. A condition is also recommended to secure the final design details for the caravans, as this information has not been submitted with the application.

#### *Personal Circumstances*

Relations of existing residents at the site would occupy the proposed static caravans. Mr Frank Bull Junior occupies the caravan closest to the location of the proposed caravans and the submission outlines that two of his adult children, one with a young child, would occupy the new caravans. The submission outlines that historically these individuals have carried out traditional traveller work around the country but would now like to have a more settled residence close to family and where the granddaughter of the applicant can be educated. Currently sites in Medway, Swale and Gravesham have waiting lists and as outlined above there is a recognised requirement for further pitches. It is considered that the personal circumstances of the applicants are a considerable material consideration in favour of the temporary grant and that further, given that there is no where else for them to go, it would be a disproportionate interference with their Human Rights balanced against wider public interests not be grant permission.

#### *Local Finance Considerations*

There are none considered relevant to this application.

### **Conclusions and Reasons for Recommendation**

The development would cause harm to the character and appearance of the countryside location, however as there is a shortage of pitches within Medway it is considered appropriate to grant a conditional permission that the caravans be removed when no longer required and the land restored.. Whilst the change of use of the site would result in the expansion of the traveller site it would be located close to the existing caravans and would form part of the same complex and occupied by the



same family. On this basis a temporary consent tied into the timescales on the original site and with a personal permission is considered appropriate.

This application would normally fall to be determined under officers' delegated powers, but is being reported for Members' consideration due to the number of letters of representation expressing a view contrary to the officers recommendation and an objection from the Parish Council.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/dconline/AcolNetCGI.gov>

