

- a) **DOV/22/00717 - Change of use of land to Gypsy/Travellers' site for 4 additional pitches, each containing 1 mobile home and 1 touring caravan, and erection of 2 amenity buildings, associated parking, hard surfacing and alterations to existing vehicular access - Falconsview Meadows, Barville Road, Waldershare**

Reason for report – Number of contrary views (6)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM7, DM11, DM15 and DM16

Draft Dover District Local Plan: The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: PM1, H4, NE1 and NE3.

National Planning Policy Framework (NPPF) (2023): Paragraphs 8, 11, and Sections 5, 9, 12 and 15.

Dover Landscape Character Assessment (2020)

5 Year Supply of Gypsy/Traveller Sites

The LPA's position is that there is a current 9-year supply of gypsy/traveller pitches. There are 9 vacant/available pitches. This follows a May 2023 survey of sites. Cultural need and Gypsy/traveller need have been included in the supply.

Planning Policy for Traveller Sites (2023) (PPTS):

The PPTS is a material consideration. It seeks to ensure that the needs of travellers (including gypsies) are identified and assessed to gather robust evidence to plan positively and manage development. Policy B states that LPAs should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Policy H provides guidance on determining planning applications for traveller sites and considers the following issues to be assessed amongst other relevant matters when considering planning applications for traveller sites:

- The existing level of local provision and need for sites.
- The availability (or lack) of alternative accommodation for the applicants.
- Other personal circumstances of the applicant
- That the locally specific criteria used to guide the allocations 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.
- The decision-maker (sic) should determine applications for sites from any travellers and not just those with local connections.

Gypsy and Traveller Accommodation Assessment (GTAA) 2018 (updated 2020):

The latest evidence of the local planning authority as set out in the GTAA is that for the plan period 2020 to 2040 there is a cultural need for 26 pitches and a PPTS need for 16 pitches.

d) **Relevant Planning History**

DOV/21/00769 (adjoining blue land) - Removal of Conditions 1 and 2 of planning permission DOV/07/00315 (siting of one mobile home and one touring caravan and ancillary facilities) to withdraw restriction on residential use by named occupiers and allow unrestricted gypsy residential use/occupancy (application under Section 73) - Granted planning permission

DOV/07/00315 - Retrospective application for change to residential use for Gypsy family of one mobile home and one touring caravan together with the ancillary use of day room/store, generating store, water tanks, and septic tank - Planning Appeal Allowed.

e) **Consultee and Third-Party Representations**

This application has had two rounds of public consultation, as the drawings were amended, and further details were submitted. The responses to these consultations can be found in full in the online planning file. A summary is provided below.

Initially submitted drawings:

Eythorne Parish Council: Strongly objects to the application on the grounds of harm to highway safety and harm to the character and appearance of the countryside.

Environment Agency: No comments to make.

Kent Archaeological Unit: Requested an archaeological desk-based assessment and a field evaluation survey.

KCC Strategic Unit: As the site was over 0.5 hectares, requested financial contributions towards youth services, library services, social care and waste services.

Kent Highways: Requested a visibility site plan or the submission of speed surveys.

Tilmanstone Parish Council: Considered the site falls within an unsustainable and poorly accessible location, would harm visual amenity and would lead to harm to highway safety.

Southern Water: Advised that there are no public foul and surface water sewers in the area to serve this development and that the Environment Agency be contacted with regard to the use of a private wastewater treatment works drainage.

Third party responses: Four responses were received following the first consultation of the planning application which raised objections against harm to highway safety, the loss of the open space and grazing on the site, harm to the landscape and visual amenity, fly-tipping, impact on the adjacent PROW and lack of need.

Amended drawings and additional information:

Environment Agency: No comments

Kent Highways: Raises no objections on highway safety but requests an on-site tracking plan for refuse vehicles and a drawing showing the location of refuse storage.

Southern Water: No further comments to make.

Eythorne Parish Council: Maintains the previous objections and also states that there is no overriding need, the proposal does not have sewerage infrastructure or fresh water supply which is harmful to health and the environment.

Tilmanstone Parish Council: Maintains the previous objections and also states that there is no overriding need, and the proposal is in conflict with the previous appeal decision.

Third party responses: One response has been received objecting to the proposal and raising similar issues as set out above with regard to highway safety, harm to visual amenity and landscape, the use of the PROW, the lack of overriding need and the request for a 2m high fence along the boundary with the PROW, should permission be granted.

f) **1. The Site and the Proposal**

- 1.1 The application site comprises a mostly square parcel of land, but forms part of a larger holding which extends eastwards, from an existing access, to the head of the field at a point further east along Barville Road. The wider site is currently occupied by four static caravans, tourers and domestic paraphernalia and accommodates four pitches. At the time of writing this report, there are four static caravans on the wider site. These are not in the location shown on the proposed Site Layout Plan, as amended. One is sited within the proposed paddock and across the location of the eastern hedgerow, as shown on the layout plan, orientated north-south. Access to the site is from the southwestern part of the site, which is already in situ as it serves an existing gypsy pitch to the west of the application site.
- 1.2 The land had previously been used as a paddock. The site is located on the upper reaches of a gentle sloping, northern-facing tip of a ridge, that extends north-north-east from Shepherdsweil to Tilmanstone. This ridge is part of a series of parallel ridges which form the rolling chalk landscape of this area of East Kent. The topography of the land rises from the valley bottom to the west of the site to a localised peak/ridge and then falls eastward towards a further valley bottom along Barville Road. The site occupies a section of the side of the hill, the ridge and the fall on eastern side. A bund is located along a short section of the southern edge of the site, and there is also a highway verge which rises above the level of the road. These assist in limiting views into the site. However, the site remains visible from Barville Road, seen through gaps in vegetation. There is a PROW that runs east-west to the rear (north) of the site. This PROW extends the length of the site and paddock area. Again, the site is visible from some sections of the PROW, but views are hindered by existing vegetation. The topography of the PROW falls with the contours of the surrounding land.
- 1.3 To the west of the application site, and sharing the same access, is the gypsy pitch granted in 2007. This is occupied by a static, tourers and an amenity building.
- 1.4 The application has been made by a gypsy family. One member of the family is already known by the planning case officer, and information has been provided to demonstrate that the applicant and her family meet the definition of having gypsy status. All those occupying the site are relatives. The pre-existing site adjoining has been occupied by the current applicant.
- 1.5 The proposal has been amended from its initial submission and reduces the area of land proposed to be occupied by the proposed pitches.
- 1.6 The siting of the static caravans will be on the western part of the field, behind and close to the access. These would be located in part on an extended hardstanding area, orientated north-south. Caravans currently on the land would be relocated in

accordance with the amended site layout plan if planning permission is granted. Parking is shown to be provided on the hardstanding area, along with a space for a tourer caravan. Two shared amenity buildings are also proposed which will be located between the pitches. The buildings have a rectangular form with a pitched roof. On the eastern edge of the site and in part along the southern edge of the hard surfaced area, adjacent to the road, new landscaping is proposed. A paddock area will be retained on the eastern part of the site. Planning conditions can be imposed to contain the pitches and domestic paraphernalia within the amended smaller site area.

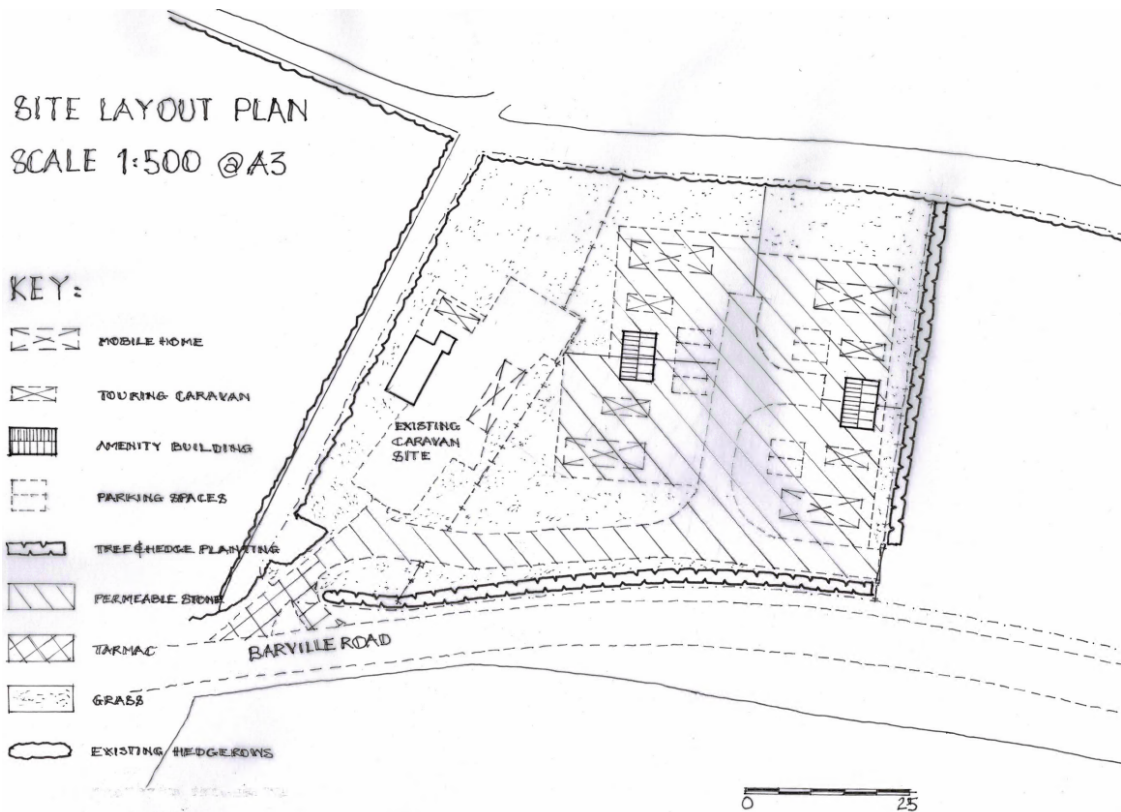


Figure 1 – Site Layout Plan

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the character and appearance of the countryside
- Impact on residential amenity
- Impact on highway safety
- Impact on ecology/biodiversity
- Other matters

Assessment

Principle of Development

2.2 Whilst Policies DM1 is out of date and DM11 is afforded reduced weight due to their level of consistency with the wording of the NPPF, restricting development principally to the settlement confines, they should still be considered relevant and carrying some weight in the outcome of the decision, as achieving a sustainable pattern and form of

development is one of the central aims of the policies which, in substance, would meet the requirements set out in the NPPF.

- 2.3 However, the most important policy in the Core Strategy, with regard to the principle of development for accommodation for gypsy/travellers, is Policy DM7. This Policy does not require such accommodation to be provided within settlements.
- 2.4 Paragraph 109 of the NPPF identifies that different conditions can apply between rural and urban locations in how 'genuine choice' for travel should be measured. Paragraph 109 of the Framework requires the active management of patterns of growth to ensure that new development is well located to allow a genuine choice.
- 2.5 Paragraphs 14 and 25 of the PPTS implicitly accept that sites may be located in rural areas but that their scale should not dominate the nearest settled community and should avoid placing undue pressure on infrastructure. Development in open countryside away from existing settlements or outside areas allocated in the development plan should be very strictly limited.
- 2.6 It is considered that the total number of pitches (4 plus the existing) would not amount to a scale of development that would dominate the nearest settled communities of Eythorne or Tilmanstone, nor would it place undue pressure on the local infrastructure. Furthermore, whilst the site is outside the nearest settlements, the distance to these settlements is not significant and access to them by road does not require the use of rural lanes. Barville Road is used to access the nearby large industrial/employment site at Tilmanstone and Eythorne Village. Access to Eastry is some 5 minute drive along the A256. Therefore, the distance to nearby facilities and amenities and their accessibility do not make the site unsustainable when factoring in that a countryside location for gypsies and travellers is not considered unacceptable in principle.
- 2.7 Having less weight in the consideration of this application are the policy provisions in the Submission Draft Local Plan. Proposed Policy H4 seeks to provide the LPA's policy provision in respect of applications for gypsy and traveller windfall sites, such as this. Amongst other matters, the Policy seeks to conserve and enhance landscape character and biodiversity.
- 2.8 The previous appeal decision granted planning permission on part of the land that adjoins the current application site, allowing the use of the site by one caravan for a gypsy family. The use of the same access is proposed. There were locational and other matters considered by the then Inspector which will be set out further in this report.
- 2.9 In conclusion, whilst there is some conflict with DM1 and DM11 of the Core Strategy, the proposal is not in conflict, in principle, with policy criterion i) of DM7, the PPTS or Paragraph 109 of the NPPF and should be supported as being in a suitably sustainable location.

Effect on Character and Appearance of the Area

- 2.10 The application proposal has been amended. This amendment reduces the area of land proposed to be set aside for the siting of the caravans and the residential activity associated with their occupation. The remaining land is proposed to be used and retained as paddocks. The uses of the land and area covered by the uses can be secured through a planning condition.
- 2.11 The site is visible from Barville Road and the adjacent and nearby road and PROWs to the north, west and south – but views into the site are tempered mostly by hedgerow

planting. The access is fully visible from Barville Road; however, this is already in use to serve the approved gypsy pitch. The land rises from the point of access, with bunding along the southern boundary such that the visibility of the caravans, in the location shown on the submitted drawing, would be limited. Further hedgerow planting and screening has been discussed with the applicant and these can be secured through a planning condition.

- 2.12 The site is also visible within the context of the large area of land to the south in use for the keeping of horses (Barville Farm). This land is subdivided by fencing and there are stable buildings, horse boxes and 'caravans' located on the land. This use of land and the equine paraphernalia on it has been taking place for a long time. The appearance of the land provides a visual context when seen from the site and along Barville Road to the east. The location of the proposed caravans and paddock would not appear in visual isolation, although they would be on the opposite side of the road.
- 2.13 The proposed layout provides for a static, tourer and amenity room, parking and some space for amenity per pitch. The statics are proposed away from the northern and southern boundaries of the site. It is considered that the scale and extent of development is not excessive and there are adequate levels of space around the pitches to provide amenity and play space for children.
- 2.14 In conclusion, there is no doubt that the use of the site for the 4 additional pitches will be visible from views from public vantage points, but it is considered that these views are tempered by existing vegetation and can be more so through additional landscaping. In context however, with the approved gypsy pitch and those structures and uses of land opposite, it is not considered that the proposed development would appear out of context, incongruous or conspicuous to cause undue harm to the rural character and appearance of the countryside.
- 2.15 With regard to the policy criteria iii) in DM7, the proposal is partly screened, with the potential for improved screening, by vegetation and hedgerow planting.
- 2.16 On balance therefore, with conditions to mitigate the degree of visual impact and harm, the proposal would not be unduly incongruous within the rural landscape or appearance of the countryside. It would satisfy the requirements of Policies DM7, DM15 and DM16 and Paragraph 180 of the NPPF.

Effect on Residential Amenity

- 2.17 The application site is suitably separate from the nearest residential properties to avoid having any material impact upon them.
- 2.18 The proposal would not lead to the reduction of the residential amenities of the occupants of any nearby dwellings and satisfies the requirements of criterion iv) of Policy DM7

Highways

- 2.19 Kent Highways do not raise objections to the application. Although the responses to the consultation of the application raise highway safety as a valid cause for concern, there are no technical objections or other evidence that has been submitted to demonstrate that the use of the access to the site would be prejudicial to highway safety.

- 2.20 As such, it is considered that subject to the implementation of the visibility sightlines and alterations to the access as proposed, it is considered that highway safety would not be unduly harmed.

Ecology/Biodiversity

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.21 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.
- 2.22 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.23 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.24 Policy NE3 of the Submission Draft Local Plan requires that within 9km of the SPA, all new 'relevant' developments will be required to contribute towards mitigation. Whilst the policy is within an unadopted plan, the evidence base is up to date and must be taken into account. A financial contribution towards mitigating the impact of the proposed additional pitches would be required through a legal agreement to mitigate the harm to the SPA. Should the Planning Committee resolve to grant this application, a financial contribution would be sought from the applicant to mitigate the harm and conflict with Policy NE3 of the Draft Local Plan.

Biodiversity Net Gain

- 2.25 The proposal does not seek to provide any ecological assessment of the site nor is there any assessment of impact upon the natural environment or biodiversity net gain. The layout of the site does not appear to require the loss of any hedgerows and only the loss of pasture. The site already accommodates some landscaping along boundaries and on part of the site where the pitches are not proposed. There would appear to be opportunities for improving the vegetation along boundaries, through new hedgerow planting. As such, the proposal could help meet the objectives of Policy NE1 of the Draft Local Plan.

Planning Policy for Traveller Sites

- 2.26 The PPTS advises that relevant matters to take into account when considering planning applications include the existing level of local provision and need for sites, the availability of alternative accommodation for the applicants and the personal circumstances of the applicant.
- 2.27 The Council can currently identify a 5-year supply of gypsy pitches within the district and provision for meeting the identified need up to 2040 is set out in the Draft Local Plan. Although the achievement of the 5-year supply of gypsy pitches is met, this figure is not a 'ceiling' that means other sites should not come forward. The 5-year supply is

the 'expected' level of supply to meet needs. However, the achievement of the 5-year supply means that full weight can be attributed to Policy DM7 of the Core Strategy and other policies that are important for the determination of the application. The PPTS is important for the determination of this application and post-dates the Core Strategy.

- 2.28 With regard to the availability of alternative accommodation, officers are aware that there are vacant pitches within the district that could be considered to represent alternative locations. However, it is not known whether a family group, such as this, could be accommodated on one site. The Planning Committee can be updated on this matter.
- 2.29 With regard to personal circumstances and what is known as "the best interests of the child" the applicant has submitted information to officers around the schooling and health of the children on the site. This information is protected from the public, but could be shared with the Planning Committee as an exempt item on the Agenda. Notwithstanding, officers consider that there is a case for retaining the children on site and providing them with a settled base.

3. Conclusion

- 3.1 The proposal seeks to accommodate 4 additional gypsy pitches on the site. The scheme has been amended to reduce the land-take for the change of use and the extent of the domestic paraphernalia associated with it.
- 3.2 Whilst there would be a limited degree of visual harm to the rural landscape and beauty of the countryside, it is considered that this does not outweigh the general need for the pitches, the limited availability for suitable alternative accommodation for the applicant and the personal circumstances of the applicant and the family group.
- 3.3 The request for financial contributions from Kent County Council was received following the first consultation of the application. The application site has now been reduced in area and only four pitches are proposed. It is not considered that the financial contributions sought can be justified to meet the tests set out in the NPPF.
- 3.4 With regard to archaeology, the KCC Archaeology has been approached by officers on a number of occasions to consider the Written Scheme of Investigation (WSI) submitted by the applicant to address the officer's comments. They have not replied. Notwithstanding, the degree of excavation anticipated is limited to mostly 'scraping' of the land to provide bases for the static caravans and a hardsurfaced topping for the site, the erection of the amenity buildings and any intrusive drainage works. In the light of the WSI, it is not considered necessary for the decision to be held up for further submissions to be made. The submitted WSI sets out the aims and objectives behind the geophysical survey and assessment of the findings, which would also include mitigation measures if these were deemed necessary. This should ensure that suitable protection to historic and archaeological findings can be safeguarded, if a suitably worded planning condition is imposed.
- 3.5 Biodiversity net gain could be achieved through further planting and other measures, and a planning condition is suggested. A financial contribution to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area is required.

g) Recommendation

- I PERMISSION BE resolved to be GRANTED subject to the completion of a unilateral undertaking to secure financial payments towards mitigating the impact of the development on the Thanet Coast & Sandwich Bay SPA and subject to the following conditions:
- 1) Limit occupation to Gypsies and Travellers
 - 2) Approved plans
 - 3) No more than four gypsy pitches on the site, and no more than two caravans on each pitch. Only the static caravan on each pitch shall be occupied for a primary residential use.
 - 4) Use to cease: if details of siting of static and touring caravans, foul and surface water, refuse storage, parking and turning areas, visibility splays, site access, boundary treatments, soft landscaping, biodiversity measures and an implementation timetable are not provided within 3 months of the decision; if such details are refused or not determined within 11 months and no valid appeal is made; if such an appeal is not allowed; or if the approved details are not completed in accordance with the approved timetable.
 - 5) Geophysical survey prior to the erection of amenity buildings
 - 6) No commercial activity, including storage
 - 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site
 - 8) No external lighting, other than that which is approved
- II Powers to be delegated to the Head of Planning and Development to settle any necessary conditions and legal agreement in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Vic Hester