

<b>Application Number</b>	14/01000/AS
<b>Location</b>	Brockton Farm Paddock, Vicarage Lane, Charing
<b>Grid Reference</b>	92189/49123
<b>Parish Council</b>	Charing
<b>Ward</b>	Weald Central
<b>Application Description</b>	Change of use of land for the stationing of 4 No. mobile homes for residential use by a gypsy family, the stationing of 2 No. touring caravans, two amenity blocks and one stable/amenity block (part retrospective)
<b>Applicant</b>	Mr & Mrs Dunn & Smith, c/o the agent
<b>Agent</b>	WS Planning & Architecture
<b>Site Area</b>	0.3 hectares
Original application	
(a) 20/2R	(b) + (c) WKPS/R
As amended Nov '15	
(b) 20/16R	(b) R (c) ES/+ WKPS/X
As amended Jan '16	
(c) 32/7R	(b) R (c) CHP/X

## Introduction

1. This application is reported to the Planning Committee at the request of one of the Ward Members, Cllr Mrs Bell.
2. This application was submitted prior to the temporary permission, which was given at appeal in August 2011, expiring and hence was originally submitted as a renewal of that permission. The application has been amended twice since submission; firstly, a revised block plan was received showing the layout of the site and subsequently, as the description of the development was changed to reflect the number of mobiles on the site which has increased by one compared with the original submission. Further consultation has been

carried out as a result. Full planning permission is now sought on a permanent basis following the expiration of the temporary permission and this application being made valid.

## Site and Surroundings

3. The application site is a parcel of land comprising 0.4 hectares in the open countryside, to the west of the settlement of Charing Heath, and some 4km to the west of Charing village. The site lies on the eastern side of Vicarage Lane and has a tall hedge to its frontage which continues along the lane in a northerly direction, providing screening of the site from this direction. The site is surrounded to the north, east and south by agricultural land and there is a residential property opposite the vehicular access to the site. The southern boundary of the application site has some planting and is some 80 metres or so to the north of the junction of Vicarage Lane with Egerton Road. The application site is on higher ground than the road junction, with the field boundaries consisting of low post and wire fencing. The application site is visible from this junction and to a lesser extent, is visible on approach along Egerton Road from the west.
4. A photograph of the site from Vicarage Lane, close to the junction of Egerton Road (taken in winter) is attached to this report as Figure 1.



Figure 1 – photograph of site close to junction with Egerton Road

5. The site lies within the Charing Heath Farmlands Landscape Character Area (LCA). It forms part of the foreland to the North Downs AONB having mixed farmland, varied woodland and small woodland copses and plantations of chestnut coppice. The landscape is in moderate condition, and the landscape sensitivity is moderate; the overall guidelines for the area being to conserve and improve the landscape.
6. A site location plan is attached to this report as Annex 1.



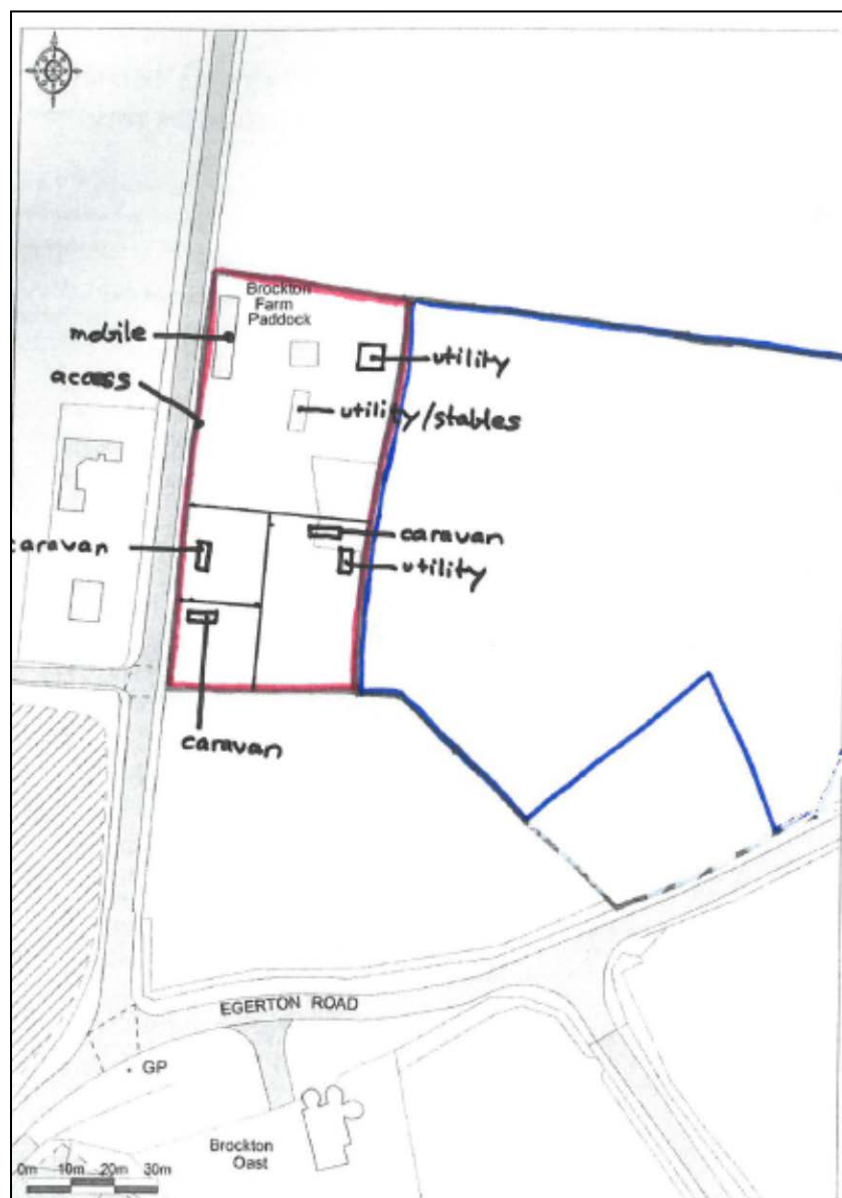
**Figure 2 – site location plan**

## **Proposal**

7. The application was originally received on 5<sup>th</sup> August 2014, prior to the most recent permission, which was given at appeal, expiring. Four mobiles are stationed on the land in residential use and as such, the application is in part retrospective.
8. The most recent appeal decision gave temporary planning permission for a three year period (until 18<sup>th</sup> August 2014) for the use of the land as a gypsy

site with associated buildings. The permission restricted the pitches to 3 with 1 mobile and 1 touring caravan on each. At that time the pitches were occupied by the applicants, Mr Dunn and Mrs Smith, and their two grown up children. The decision also gave permission for the stable building, part of which is used for a toilet and as a utility block, and for a separate amenity block which is on the site.

9. The current application seeks full planning permission for the use of the same area of land subject of the 2011 permission, for the stationing of 4 mobile homes for residential use and the stationing of 2 touring caravans on the land (not in residential use). The application includes the previously approved stable block/utility and the separate utility which were part of the 2011 permission. The application also proposes an additional amenity block to serve the south eastern most plot. There would therefore be no net increase in structures on the site in the form of caravans and tourers compared with the expired temporary permission.
10. The four mobile homes are on the land:
  - one mobile on the northern part of the site occupied by the applicants and their 23 year old daughter, Nancy. The amenity/'utility' and the stable building, part of which provides a toilet and utility use, is on this part of the site;
  - second mobile to the south of the site entrance occupied by the applicant's nephew, Frank Smith, and his wife/partner Rebecca Dunn, and their two children – one who is 9 years of age and attends Charing Primary School; and one who is now 18 months old.
  - third mobile further south occupied by the applicant's son, Mark, and his wife/partner Zara Devel. They have a baby boy who was born in September 2016. Mark was on the site at the time of the 2011 appeal.
  - fourth mobile home to the east occupied by the applicant's son, Dougie Smith ( 27 years), and his wife/partner Debra Higgins, and their three children who are 8 years old, 5 years old and 4 years old. All three children attend Charing School.



**Figure 3 – block plan**

11. In support of the application, the agent states that:
- G&T site allocations have not yet been finalised
  - as part of the balancing exercise overall, the lack of alternative sites, health and educational needs, need to be considered
  - Mr Dunn has been seriously ill and in June 2013 following a heart attack he had a quadruple heart bypass operation and needs to have a settled base to ensure he stays in good health
  - as there is not a demonstrable 5 year supply of deliverable sites for Gypsy and travellers in the Borough the granting of a permanent permission will help meet the need.

## Planning History

**00/01610/AS:-** permission was **refused** for 'Long stay caravan pitch for one gypsy family two caravans' (retrospective) on 23.02.01. **Appeal-** see below

**Enforcement Notice:-** issued 12.04.01 in respect of the change of use of the land to use for the stationing of residential mobile homes with ancillary structures and sheds. **Appeal** – see below

**Appeal** against the refusal of application 00/01610/AS and the issuing of the Enforcement Notice (combined appeal). Appeal decision dated 15.10.01 gave planning permission on a temporary 1 year basis.

**Breach of Condition Notice** served on 02.12.02 in respect of breach of Condition 1 imposed on the Inspectors decision above as the use continued beyond the temporary period.

**02/01875/AS:-** permission **refused** on 24.01.03 for 'Stationing of one mobile home, one touring caravan and a utility room for a gypsy family'. **Appeal** decision 21.11.03 dismissed the appeal.

**06/00015/AS:-** an application in respect of 'Siting of one mobile home (retrospective), one touring caravan and erection of one amenity block to house one gypsy family (retrospective)' was submitted on 13 January 2006. On 18.01.06 an **Injunction** was sought in Canterbury County Court – the Judge adjourned for trial on 31.07.06. The planning application was **refused** on 20.02.06. The proceedings in respect of the Injunction were suspended until the outcome of the appeal against the refused application. **Appeal-** temporary planning permission was given for a 3 year period in a decision of 21.05.07.

**07/01658/AS:-** permission **granted** 18.01.08 for 'Erection of a stable block part of which will be used for toilet and utility room (retrospective). This permission required the buildings to be removed when the temporary permission expired on 21.05.10.

**10/01106/AS** permission was **refused** in respect of 'Renewal of planning permission 06/00015/AS for the stationing of 1 mobile home (retrospective), one touring caravan and erection of one amenity block to house one gypsy family (retrospective), erection of a stable block part of which will be used for a toilet and utility block (retrospective) and 2 additional mobile homes for two additional gypsy families'. **Appeal** decision of 18.08.11 gave temporary planning permission for 3 years for 3 mobile homes and 3 touring caravans, 1 amenity block and 1 stable, partly used as a utility room. The Inspector noted that the three pitches were occupied by the appellants (Mr Dunn and Mrs Smith) and their adult children (Mark who remains on the site and a foster son who has now vacated the site). The Inspector found that the weight given to the lack of deliverable G&T sites and the accommodation needs of the family and children on

the site, tipped the balance in favour of granting a temporary permission when weighed against the recognised visual harm. This permission expired on 18.11.14

On 05.08.14 the application to which this report relates was received.

## Consultations

**Ward Members:** one of the Ward Members, Cllr Mrs Bell, has requested that the application be determined by the Planning Committee.

**Application as originally submitted** – ‘renewal of temporary planning permission 10/01106/AS for the stationing of 3 mobile homes, three touring caravans, one amenity block and one stable block (retrospective)’

**WKPS:-** object to the application, but are of the view that the only way forward would be for a temporary permission to be given pending allocation to an official site. WKPS note that the settlement is harmful to the character and appearance of the countryside; and that the Inspector hoped that an additional official gypsy and traveller site would be available by the end of the temporary period granted at appeal in respect of the 2010 application. WKPS are of the view that since no further provision has been made, it would seem that the only way forward would be for a further temporary permission to be given pending allocation to an official site.

**Neighbours:-** 20 neighbours consulted; 2 letters of objection received raising the following:

- blot on the landscape
- retrospective applications

### **Consultation following receipt of amended plan -**

**Charing Parish Council:** object on the grounds that:

- the site is unauthorised and an additional mobile home has been installed on the site prior to the application having been determined
- one of the applicants has not been resident on the site for over a year
- the previous “dependants” of Mr Dunn and Miss Smith are no longer dependent as they are grown adults and previous temporary permission given on basis of being “dependents”; no school age children are on the site
- continuous increase in size of development on the site with each application which has an increasing detrimental visual impact on this rural area

- question the gypsy and traveller status of the occupants
- site is outside the built confines of the village and in a rural area that is undesirable for residential development of any kind and other residential applications in Charing Heath have been refused recently on the basis that they are outside such areas and for development which is less visible and thus to permit this application would be prejudicial to other applications which have been refused
- increasingly detrimental to the landscape character of the area causing increasing harm to the countryside as it continues to expand
- no evidence that the family have sought alternative sites since occupation in 2000
- significant and increasing infringements of the Human Rights of residents and neighbours in view of increasing antisocial and criminal activities of site residents

**WKPS:-** further correspondence received neither objecting or supporting the application

**Environmental Services Manager:-** no comments on the application.

**Neighbours:** 20 neighbours consulted; 15 neighbours raise an objection on the following grounds:

- all other applications have been refused
- the site is sub-let to other traveller families
- the site is on original heath and is on the highest point of the village and is a real eye sore for many locals
- encampment is illegal and should be cleared
- impact on surrounding countryside
- low lying land close to the water table and could lead to extensive leakage into the source of domestic and animal waste
- existing properties will be affected by permission being granted
- the development should have stopped when the children left school
- blot on the landscape and is not in keeping with the surrounding area and the land should be returned to its original use of farm land/grazing



- more units on the site than is being requested and so are in breach of planning control
- raw sewage has leaked from the site; inadequate sewage disposal
- site is untidy
- horse dealing, car dealing and sale of goods run from the site making this a commercial site
- the site's location has devalued properties significantly
- site is not served by public transport and there are no accessible local shops being a considerable distance from the nearest large town and hence the occupants are dependent on car based transport so the development is not sustainable under the NPPF
- the site is in the open countryside and so the development contravenes paragraph 3.24 of the PPTS which very strictly controls development
- the applicant appears to be a genuine gypsy but fails to meet the definition as it would appear that there is no intention of resuming a nomadic habit of life in the future
- a permanent permission would set a precedent and further development between villages would seriously erode the rural character of the area
- in a location which is unsuitable for residential development
- visually incongruous and intrusive development adversely affecting the visual amenity of the area
- the need for gypsy and traveller accommodation in the area does not outweigh the harm
- the applicant has not appeared to have applied for any alternative site since the previous appeal decision
- the applicant no longer have any dependants of school age and there is no need for them to stay on the site on these grounds
- the site has a negative impact on the local environment and on the peaceful enjoyment of the community
- greater harm to the human rights of the wider community in Charing Heath and this should carry greater weight than the expansion of a green belt site

- no evidence that Mr Dunn has ever travelled at all and should be regarded as a normal member of the public
- no weight should be given to state of health
- over the period of time from 2000, the site has continued to become an even greater eyesore
- applications for houses have been refused in the area of Charing Heath
- history of breaches at the site and no action has been taken
- it is vital that the same rules apply to all applicants, regardless of status
- the expansion of the site contained in this application will contribute to the high density of gypsy/travellers already in the immediate vicinity; number of sites is out of proportion with the embedded population, putting a strain on local services
- creates a concentration of development which is out of scale with the open and spatial nature of the surrounding rural landscape
- caravans, amenity blocks and stables have no design or architectural merit

**Consultation following correction to description** – Change of use of land for the stationing of 4 No. mobile homes for residential use by a gypsy family, the stationing of 2 No. touring caravans, two amenity blocks and one stable/amenity block (partly retrospective)

**Charing Parish Council:** objection maintained with additional comments submitted:

- there are no educational requirements as children have grown up
- full planning permission should not be given as nothing has changed to make the site more acceptable in planning terms
- not appropriate to give a further temporary permission because of the deterioration of the site and the addition of further unapproved development on the land previously owned by the applicant and the application should be refused

**Community & Housing:-** comment on the application, stating:

- past complaints have been reported about raw sewage seeping into the surrounding fields around the site and the drainage and sanitation to the site should be properly addressed

- the condition of the existing electrical installation is unknown on the site and a full report is required to identify any concerns and any serious hazards will need to be addressed
- note that mobile homes, where practicable, should be spaced at a distance of no less than 6 metres from any other mobile home which is occupied as a separate residence
- suitable access for emergency services needs to be considered
- a site licence will be required if planning permission is given
- question how the domestic refuse storage & disposal at the site will be addressed

**Neighbours:**-32 neighbours consulted; 7 letters of objection received raising the following additional grounds:

- not a suitable site for any development
- the original intention for the site was to prevent and remove the development
- the land at the site continues to be sold off and continues to be a blight on the area
- the previous refusals have all been based on the land not being suitable for this proposal
- site is not suitable for a long term/permanent solution and little has changed except that this is now a larger development
- definition of traveller was amended and anyone who does not travel should be subject to the same planning conditions as any permanent resident
- mobile homes are not caravans and remain in the same place for many years and are more visually intrusive in the landscape
- the development proposed is a large development in such a visually prominent site
- since the last temporary permission there have been a number of changes and development; the Inspectors findings and recommendations of July '11 should be enforced and the site restored
- objections to this site remain the same as the numerous applications which have been refused

- the creation of residential curtilage and virtually any form of built development would appear intrusive, incongruous and detrimental to the predominantly open and rural character of the surrounding area

## **Planning Policy**

12. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012 and the Chilmington Green AAP 2013. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016. At present the policies in this emerging plan can be accorded little or no weight.
13. The relevant policies from the Development Plan relating to this application are as follows:-

### **Ashford Borough Local Plan 2000**

GP12 - Protecting the countryside and managing change

### **Local Development Framework Core Strategy 2008**

CS1 - Guiding Principles

CS2 - The Borough Wide Strategy

CS14 - Gypsies and Travellers

CS15 - Transport

### **Tenterden & Rural Sites DPD 2010**

TRS17 - Landscape character & assessment

TRS18 - Important rural features

### **Local Plan to 2030**

SP1 - Strategic Objectives

HOU16 - Traveller Accommodation

HOU17 - Safeguarding existing Traveller sites

ENV3 - Landscape Character and Design

14. The following are also material to the determination of this application:-

**Supplementary Planning Guidance/Documents**

Landscape Character SPD 2011

Dark Skies SPD 2014

**Government Advice**

National Planning Policy Framework 2012

Planning Policy for Traveller Sites 2012

National Planning Policy Guidance

15. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. One of the core principles of the NPPF is that decision taking should recognise the intrinsic character and beauty of the countryside. Section 11 of the NPPF sets out the policy on conserving and enhancing the natural environment. Weight is required to be given to conservation of the landscape and scenic beauty of land in accordance with the general thrust of the NPPF, which the relevant policies identified in the 'planning policy' section above accord with.
16. The following sections of the NPPF are also relevant to this application:- the presumption in favour of sustainable development (para. 14); recognising the intrinsic character and beauty of the countryside (para. 17); the contribution and enhancement of the natural and local environment (para. 109); an approach to positive decision-taking to foster the delivery of sustainable development (para. 186); presumption in favour of sustainable development (para. 197); and use of planning conditions (para. 203). Paragraph 4 of the NPPF notes that the framework should be read in conjunction with the PPTS.
17. The Planning Policy for Travellers (PPTS) suggests that gypsy sites are not excluded from the countryside as a matter of principle, however, the Planning Policy for Traveller Sites (PPTS) states that Local Planning Authorities should very strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. The PPTS also lists the following issues amongst other relevant matters

to be considered during the assessment of planning applications for gypsy sites:

- a) the existing level of provision and need for sites;
  - b) the availability of alternative accommodation for the applicants;
  - c) other personal circumstances of the applicant;
  - d) that the local specific criteria used to guide the allocation of site in plans or which form the policy where there is not identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
  - e) that they should determine applications for sites from any gypsy and not just those with local connections.
18. Any new development for such sites in rural areas should respect the scale of and not dominate the nearest settled community and avoid placing undue pressure on local infrastructure.
19. Other Government Policy - Technical Housing Standards – Nationally described space standards.

## **Assessment**

20. The key issues to consider are the following:
- Gypsy and Traveller status
  - Impact of the development on visual amenity
  - Sustainability
  - Need for and provision of gypsy sites
  - personal circumstances and alternative accommodation
  - previous appeal decisions

## **Gypsy status**

21. The Inspector, in determining the appeal in 2011, concluded that the applicants and their adult children, who at that time were occupying the two other pitches, are Gypsies and Travellers. The relevant definition at that time was that contained in Circular 1/2006. In 2012, the definition changed to that

continued in the Planning Policy for Travellers document, changing again, by virtue of the deletion of 'permanently' ceasing to travel, in the now, current definition, in August 2015.

22. For the purposes of planning, "gypsies and travellers" means:

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

23. The guidance notes that in determining whether persons are 'gypsies and travellers' for the purposes of the planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) Whether they previously led a nomadic habit of life
- b) The reasons for ceasing their nomadic habit of life
- c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances

24. The information contained within the application confirms that Mr Dunn has been ill, having had a heart by-pass operation in 2013. Mr Dunn has confirmed that he continues to travel, on some occasions with his sons, and that he carries out a mix of work including landscaping and tree work and also attends fayres.

25. Two sons and one nephew and their families occupy the other three pitches. All three have confirmed that they travel – Frank buys and sells horses, animals and cars and travels away roughly 3 weeks at a time, 10 or so times a year. His family travels with him on occasions during the school holidays. Mark buys and sells horses, having 2 at the time of my visit. He has confirmed that he travels, mainly to horse fayres. Dougie (Jnr) has confirmed that he mainly does gardening and travels for work and to horse fayres.

26. I am satisfied that the applicants and their sons should be regarded as gypsies for planning purposes.

### **Visual amenity**

27. Four Planning Inspectors between 2001 and 2011 have concluded that the visual impact of the development weighed against the granting of a full planning permission for the use of the site as a gypsy site. The most recent appeal decision in 2011 gave planning permission for three pitches, each

having one mobile home and one touring caravan. The development proposed under this current planning application is on the same area of land as the 2011 application, however, it differs in that it proposes the siting of an additional mobile home in residential occupation and the stationing of one less touring caravan.

28. It is recognised that prior to the first unauthorised use of this land as a gypsy site in 2000, the site was agricultural land. It is set in an attractive and somewhat elevated position above land to the south and east. The hedging to the front of the site provides screening from the north and alongside the site, although the land is open to the south. Planting has become more established, particularly on the southern boundary, however, views of parts of the development are possible from outside the site when viewed from Vicarage Lane to the south and the Egerton Road junction and approach to the site from the west and south. The two mobile homes which are sited on the southern part of the site are partly visible when viewed from the south (see Figure 1).
29. The use of the site and the associated buildings, vehicles, fencing and domestic items has altered the character and appearance of this part of the countryside, and has changed the character of the landscape to the detriment of its intrinsic character and beauty.
30. The development results in visual harm to the immediate surroundings and fails to meet the requirements of Development Plan Policy.

### **Sustainability**

31. Paragraph 13 of the PPTS states that Local Planning Authorities should ensure that traveller sites are sustainable economically, socially and environmentally. As previously mentioned, the PPTS also states that LPA's should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the Development plan and any sites in the rural area should respect the scale of, and not dominate, the nearest settled community and avoid placing an undue pressure on the local infrastructure.
32. Charing is the nearest settlement with local services which is some 4km away and it is in this village where the children on site who are of school age attend school. I note that the rural road network serving the site lacks footways and verges, as well as lighting, and is not therefore safe for pedestrian use. This is a disadvantage of the location of the site and contradicts the aim of policy regarding the reliance on the private car and hence is a factor weighing against the development. However, I also note that the Inspector in 2011 concluded that the site was not "*in any real sense in an isolated located, as there is a reasonable range of local services available at Charing*".



33. Given the above, I consider the site, in terms of location, to be sustainable.

### **Need for and provision of gypsy sites**

34. A Gypsy and Traveller Accommodation Assessment (GTAA) was carried out in 2013, which identified a need for 17 additional pitches between 2012-2017; and a need for 57 pitches between 2012-2028. Whilst planning permission has been granted for a number of gypsy sites, there is still a general unmet need in the borough and the council cannot demonstrate an up-to-date 5 year supply of deliverable sites.
35. Turning to supply, land allocations for gypsy sites are to be made through the new Local Plan to 2030. The call for sites has resulted in two pitches, providing 7 permanent pitches, being allocated in the draft Local Plan. Whilst it is anticipated that the local plan will be adopted by summer 2017; it is likely to be in the region of 2-3 years after that before allocated and deliverable sites will be available.
36. The lack of a 5-year supply of deliverable sites is a significant material consideration.

### **Personal circumstances and alternative accommodation**

37. The Planning Inspector in his decision concluded that at that time, the occupiers had no reasonable expectation of a suitable lawful alternative place to live if they were to leave the site. I agree that the family have a need for accommodation. There are 6 children living on the site – 4 of primary school age and 2 younger children. The associated needs of the children, for continued education, and for the families to continue to have access to local health and other support services, is a material consideration in favour of their continued occupation of this site.
38. The application confirms that Mr Dunn underwent heart surgery in 2013, and as mentioned above, some weight should be given to access to health care, however, the application leads me to conclude that the occupiers do not have any exceptional health care requirements.
39. Central Government Guidance states that it will rarely be justifiable to grant a second temporary permission and that further permissions should normally be granted permanently or refused if there is clear justification for doing so. However, the PPTS also clearly says that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering whether to grant a temporary planning permission.

40. There has been repeated temporary permission in the expectation that alternative accommodation would be delivered. The Council is in a similar position to at the time of the 2011 permission. Some weight should also be given to the length of time spent by family members at the site.

### **Previous appeal decisions**

41. Previous appeal decisions are also a material consideration in determining this application, although it is noted that the NPPF and the PPTS have been introduced since the most recent appeal decision in 2011. As stated above, there has been four appeal decisions at this site since 2001. Current Guidance that postdates the 2011 permission promotes fair and equal treatment for travellers with a shift onto the assessment of need and the identification of land to meet the identified need falling within the remit of the local authority. The Guidance encourages the provision of sustainable sites.
42. In 2011, the Planning Inspector noted that there was a shortfall in gypsy pitch provision within the Borough and that there were no suitable pitches in the area for the occupiers of the site to move to. He noted the visual impact that the use of the land would have on its surroundings which was noted by the three previous Inspectors, between 2001 and 2007.. The Inspector gave weight to the need for accommodation for the family and also the associated needs of the children on the site for continued education, and for the families to have access to local health and other support services, recognising that it was likely to be some two and a half years before the need of the occupants would be delivered through the DPD process. This led him to conclude that these circumstances were such that significant weight should be given in support of a 3 year permission.
43. The Inspector acknowledged that the permissions granted at appeal since 2000 had all been conditional upon the eventual restoration of the land to its former condition and he did not attach significant weight to the suggestion that because the G&T site use had been extant since 2000 it had become for that reason an acceptable landscape feature. He noted that the developed part of the site was partially screened but the use, buildings, caravans and vehicles are visible from several directions concluding that the development resulted in material harm to the character and appearance of the countryside, attaching significant weight to this. In balancing, he gave substantial weight to the need to provide additional accommodation for G&T on a temporary basis, noting that there were considerable objections to a permanent permission. Similarly, significant weight where a temporary permission is concerned was given due to the personal circumstances in terms of the families need for accommodation, the children's educational needs, access to health care etc. He concluded that the balance of considerations was firmly against the grant of a permanent planning permission, but that it did support the grant of a temporary permission.

## **Other planning matters**

### **Residential Amenity**

44. There is a residential property opposite the site, with other properties located further from the site (see Annex 1). Given the distance between the application site and these residential properties in the locality, the development will not result in any significant harm to the living conditions of those occupiers through noise and disturbance, overlooking nor will the development appear overbearing.

### **Highway Safety and Parking**

45. There is sufficient off-road parking/turning space within the site and sufficient visibility splays are achieved from the access. Whilst the application proposes one additional mobile home to that previously approved, I do not consider that there would be such a change to vehicle movements that the local rural road network could not accommodate the development. There would therefore be no harm to highway safety.

### **Drainage**

46. Issues have been raised concerning the lack of suitable provision on the site to deal with sewage. Whilst there is a septic tank at the site, if permission is forthcoming, a condition should be attached to address this matter.

### **Other matters**

47. The fact that this application is in retrospect, as the fourth mobile home is on the land, has been raised, however, all development proposals are required to be considered against the development plan and any other material considerations. An application made in retrospect is not one such material consideration.
48. A number of local residents have asserted that Mrs Smith is not living on the site and is no longer part of the 'Dunn' family, however; I can confirm that Mrs Smith has been present on the site when I have conducted site visits.
49. It has been asserted that Mr Dunn does not have the right to own or care for animals, however this is not a planning consideration.
50. Reference has been made to the noise emanating from the site and to bonfires on the site. Such issues have been referred to colleagues in Environmental Protection when they have been raised with the planning department.

51. It has been asserted that the development devalues properties in the local vicinity' however, this is not a planning consideration.
52. It has been alleged that the site is used for commercial purposes; however, I have no evidence of such and a planning condition could be attached to any grant of permission to control such.
53. It has been asserted that any permission would set a precedent; however, each application is required to be considered on its own merits against development plan policy and any other material considerations.
54. It has been alleged that the criminal activity in the area has increased – criminal activity is a police matter.

## **Human Rights Issues**

55. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

## **Conclusion**

56. The applicants are seeking a permanent planning permission for use of this site as a gypsy site.
57. The development proposal results in visual harm and is therefore not sustainable environmentally. Given this, the development fails to accord with policy.
58. The site is located in the open countryside; however, gypsy sites are not excluded from such areas as a matter of principle.
59. The proposal complies with the development plan in that there would be no harm to high way safety or residential amenity.
60. The site is considered to be in a sustainable location. It does not dominate the nearest settled community and does not place undue pressure on local infrastructure.
61. There have been repeated temporary permissions at the site, all of which have been conditional upon the eventual restoration of the land to its former

condition in light of a more acceptable permanent alternative becoming available through site allocations.

62. Central Government Guidance advises against repeated temporary permissions; although, the Council does not yet have a 5-year supply of sites with pitch allocations are being addressed through the Local Plan with adoption expected around summer 2017; given this, these sites are likely to be delivered 2-3 years following adoption of the Plan. The lack of a 5-year supply of deliverable sites weighs significantly in favour of a temporary permission at the site. This is the same approach that the Inspector took back in 2011.
63. This family have resided at this site for some 16 years. There are 6 children on the site – four of primary school age, and two who are younger. Significant weight should be given to the best interests of the children on the site who are attending the school in Charing and the interests of children are required to be a primary consideration. Their education needs, the family's health care needs and access to other support services would be met were they to remain at the site. This weighs in favour of the development.
64. The balance remains against the granting of a permanent planning permission, however, supports the grant of a temporary permission for a further three year period.

## Working with the applicant

65. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

## Recommendation

### Permit

Subject to the following conditions and notes:

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 of Annex 1: Glossary of the Planning Policy Guidance for Gypsy and Traveller Sites.

**Reason:** The site lies in an area where an unrestricted caravan site would not normally be permitted.

2. The use hereby permitted shall be for a limited period being the period of three years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structure, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

**Reason:** In the interests of visual amenity.

3. No more than four single unit mobile homes in residential use and two touring caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

**Reason:** In accordance with the terms of the application and in the interests of visual amenity.

4. Within 1 month from the date of this decision, written details of the method of foul sewage disposal shall be submitted to the local planning authority for approval. The works shall thereafter be carried out in accordance with the approved details within 2 months of the approval of those details. Any material change to the approved details shall only take place following the written agreement of the Local Planning Authority.

**Reason:** No such details have been submitted and to ensure the proper and effective foul drainage at the site.

5. Prior to the commencement of the erection of the proposed utility block, scaled elevational drawings and details of the materials to be used shall be submitted to the local planning authority. The utility block shall be erected in accordance with the approved details. Any material change to the approved details shall only take place following the written agreement of the Local Planning Authority.

**Reason:** No such details have been submitted and in the interests of visual amenity.

6. No commercial activities shall take place on the land, including the storage of materials, and no vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.

**Reason:** To enable the Local Planning Authority to regulate and control the development of land and to protect the visual amenities of the locality.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting

that Order with or without modification), no gates, walls, fences or other means of enclosure shall be erected on the site without the prior written permission of the Local Planning Authority.

**Reason:** To enable the Local Planning Authority to regulate and control the development of land and to protect the visual amenities of the locality.

8. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

**Reason:** To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

9. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

**Reason:** In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

### Note to Applicant

1. The applicant is advised to apply for a caravan site license from Ashford Borough Council Private Sector Housing.
2. Working with the applicant

In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service;
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application;
- where possible suggesting solutions to secure a successful outcome;

- informing applicants/agents of any likely recommendation of refusal prior to a decision; and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- the applicant/agent was updated of any issues after the initial site visit;
- the applicant was provided the opportunity to submit a further plan in respect of the site layout; and the description was changed to reflect the development applied for;
- the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

## **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 14/01000/AS.

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Annex 1



# Ashford Borough Council



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