

4.3 – SE/14/02899/CONVAR Date expired 3 November 2014

PROPOSAL: Removal of conditions 1 (temporary period of three years) and 2 (occupation) of planning permission SE/11/01510/FUL - permanent use of the land as a gypsy and traveller caravan site including proposed amenity buildings.

LOCATION: Mobile Home At Station Court, Sevenoaks Road, Halstead TN14 7HR

WARD(S): Halstead, Knockholt & Badgers Mount

ITEM FOR DECISION

The application has been referred to Development Control Committee by Councillor Williamson due to the impact of the development upon the Green Belt, impact upon street scene and that the very special circumstances case has not be demonstrated.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:-

1) This planning permission is granted for a temporary period of two years only, from the date of this permission. By the date this permission expires, all caravans, utility building, structures, hardstanding, materials and equipment brought on to the land in connection with the use hereby approved, shall be removed and the site shall be restored to its previous condition, or restored in accordance with a scheme that has been submitted to and approved in writing by the Council.

In order that any other proposal for the use of the land for a longer period is the subject of a separate application, to be determined on its merits, having regard to the harm to the Green Belt, the status of the Local Development Framework and the allocation of sites for Gypsies and Travellers.

2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents: Mr Robert Simmons and his wife Helena (Breda), Jamie Simmons and his wife, Alex, Myles Simmons and his wife, Margaret, Patrick Simmons and his wife, Jemma, Bobby Simmons and Bridget Murphy and their resident dependants. When the land ceases to be used by Mr Robert Simmons and his wife Helena (Breda), Jamie Simmons and his wife, Alex, Myles Simmons and his wife, Margaret, Patrick Simmons and his wife, Jemma, Bobby Simmons and Bridget Murphy and their resident dependants, or at the end of the expiry of temporary permission, whichever is the sooner, the use hereby permitted shall cease to all caravans, utility building, structures, hardstanding, materials and equipment brought on to the land associated with the use hereby permitted.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

3) No more than 7 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm, in accordance with Policy EN1 of the Local Plan.

4) No commercial activities shall take place on the land, including the storage of materials, other than the display of and sale of Christmas Trees in December each year for the duration of this permission.

To preserve the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

5) No building, enclosure or temporary structures other than those shown on the approved block plan MCA-2 received on 13th June 2011 shall be erected or placed on the site.

To preserve the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

6) Upon substantial completion of the utility blocks approved, all existing sheds, utility structures and moveable utility structures shall be removed from the site. No structures, other than those shown on the approved block plan shall be provided on site at any time.

To prevent inappropriate development in the Green Belt as supported by PPG2.

7) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 1 of Annexe 1 of DCLG document Planning Policy for Traveller Sites March 2012.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

8) The development hereby permitted shall be carried out in accordance with the following approved plans: MCA-1, MCA-2

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

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,

- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Did not require any further assistance as the application was acceptable as submitted.

Description of Proposal

- 1 Under planning reference SE/11/01510/FUL, temporary planning permission was granted for the change of use of the land for a gypsy and traveller caravan site including the proposed amenity buildings. The scheme provided three static mobile homes and 4 touring caravans with three amenity buildings.
- 2 This is a Section 73 application that seeks the removal of the following condition one of above mentioned planning permission which states:

Condition 1 (Temporary permission) -

“This planning permission is granted for a temporary period of three years only, from the date of this permission. By the date this permission expires, all caravans, utility building, structures, hardstanding, materials and equipment brought on to the land in connection with the use hereby approved, shall be removed and the site shall be restored to its previous condition, or restored in accordance with a scheme that has been submitted to and approved in writing by the Council.”

- 3 It also proposed the variation of Condition two to allow unrestricted occupation of the site by any gypsy and traveller. The existing condition of the above mentioned planning permission states:

Condition 2 (Occupation Residency) -

“The occupation of the site hereby permitted shall be carried on only by Mr Robert Simmons and his wife Helena (Breda), Jamie Simmons and his wife, Alex, Myles Simmons and his wife, Margaret, Patrick Simmons and his wife, Jemma, Bobby Simmons and Bridget Murphy and their resident dependants and whilst they comply with the definition of gypsies and travellers set out in paragraph 15 of ODPM Circular 01/2006. When the land ceases to be used by Mr Robert Simmons and his wife Helena (Breda), Jamie Simmons and his wife, Alex, Myles Simmons and his wife, Margaret, Patrick Simmons and his wife, Jemma, Bobby Simmons and Bridget Murphy and their resident dependants, or at the end of the expiry of temporary permission, whichever is the sooner, the use hereby permitted shall cease to all caravans, utility building, structures, hardstanding, materials and equipment brought on to the land associated with the use hereby permitted.”

Description of Site

- 4 The site is to the northern side of London Road and adjacent to Knockholt Station which is situated to the west. The railway line lies immediately to the north of the site, and on the opposite side of London Road is Broke Hill Golf Club. The northern edge of the site defines the District Boundary with the London Borough of Bromley, which also runs along the western edge of the site and then follows the northern side of Sevenoaks Road running west.
- 5 Access to the site is currently gained off London Road with a vehicular access, the boundary with the highway being defined by a standard 1.8m high fence. The siting of the structures and units on site run parallel with the southern boundary.
- 6 The nearest neighbours are Broke Lodge and the Railway House, both approximately 100m to the west of the application site. Approximately 200m to the east lies the beginnings of the main residential development of Badgers Mount, with the village confines some, 850m to the east.
- 7 At present the occupants have laid out the soft landscaping to the northern boundary of the railway line, providing small conifers hedging in front of the wire mesh fencing.
- 8 There are three static mobile homes on site and 4 touring caravans currently on site, together with other associated paraphernalia.

Constraints

- 9 Metropolitan Green Belt
- 10 Flood Zone 3

Policies

Sevenoaks Core Strategy

- 11 Policies – SP1, SP6, SP8, L08

ADMP:

- 12 Policies - EN1, EN2, EN6, GB6, T1, T2

Other

- 13 National Planning Policy Framework (NPPF)
- 14 Planning Policy for Travellers Sites (PPTS) March 2012
- 15 Ministerial Statements dated 01 July 2013 & 17 January 2014
- 16 National Planning Practice Guidance (NPPG)

Planning History

- 17 03/00292/FUL- Use of land as a private gypsy caravan site (6 pitches). Refused.

- 18 Enforcement notice issued 27.06.2003 - Enforcement notice appealed - Appeal dismissed by the Secretary of State. Appealed to the High Court of Justice, 02.03.2005, to challenge the Secretary of State decision- ALLOWED
- 19 Secretary of State appealed to the Court of Appeal, 03.11.2005, appeal allowed, enforcement notice reinstated and compliance period set on or before the 03.11.2006.
- 20 SE/06/03260/FUL- Continued use of land as a private Gypsy Caravan Site (6 pitches)- REFUSED. Allowed at appeal for temporary 3 year period until 18.06.2011
- 21 Granting of SE/06/03260/FUL at appeal superseded the outstanding enforcement notice.
- 22 11/01510/FUL - Permanent use of the land as a gypsy and traveller caravan site including proposed amenity buildings – GRANTED (Temporary three year), note: to allow time for an allocation plan to be adopted.

Consultations

Halstead Parish Council

- 23 Objects for the following reasons:

“1. The site is in the Green Belt, Policy H16 relates, correspondingly the NPPF also does not include mobile home parks and caravan sites as appropriate development in the Green Belt.

2. When Mr Simmons, the owner of the land, applied for consent for a travellers’ site in 2008 it was refused by SDC and then refused on Appeal. Mr Simmons appealed this decision to the high court where the Judges agreed temporary permission should be given so that the family, particularly the young children, could have a stable up-bringing.

3. In 2011, a second application was presented, refused and finally appealed. The Appeal Inspector made very strong recommendations as to the terms of the temporary permission including naming the people who could occupy the home.

4. Mr Simmons, the owner of the land, has always indicated that he only wished to live on the site with members of his immediate family. He had no wish for other traveller families to reside on the site.

5. Mr Simmons family has reached the age when they no longer need to attend the village school and there is no longer a requirement for a traveller site to exist, let alone change conditions for its use.

6. The Parish Council believes that the District Council is disregarding the opinion of the Appeal Inspector who granted this temporary permission for the travellers’ site in 2011, and should be encouraging Mr Simmons to carry out the conditions of the last permission.

7. The Parish Council believes there is no need for a travellers/gypsy site on this land, and the land should be returned to its previous condition.”

Shoreham Parish Council

24 Objects for the following reasons:

“The Council agrees with the opinions registered at Appeal by SDC, the Planning Inspectorate and the High Court that the site is totally unsuitable for use as a gypsy site.

Temporary permission (3 years) was granted by the High Court, under special circumstances, solely to enable the young children to attend the local school.

Shoreham Parish Council would also like to point out that until SDC has determined its policy on Gypsy & Traveller sites, it is premature to consider planning applications of this nature.”

London Borough of Bromley

25 No comment received

Kent Highways Services –

26 No objection

Network Rail

27 No objections, recommend condition relating to the erection of a 1.8m high trespass fencing, together with other informatives.

Environment Agency

28 Initially objected but now has retracted the objection for the following reason;

“According to our flood risk maps, part of the site is shown to be in Flood Zone 3, however, the site is remote from any watercourse and believed to occupy a “dry valley”, which means the site is not at risk from fluvial flooding.

In view of the above, we are now in a position to remove our objection.”

SDC Gypsy Liaison Officer

29 No comment received

KCC Gypsy Liaison Officer

30 No comment received.

Representations:

31 1 letter of support; and

32 1 letter of objection to the permanent use of the site.

Chief Planning Officer's Appraisal

Principal Issues

- 33 This is a Section 73 application to allow the variation of a condition of a specific planning permission. This will effectively allow the consideration of variation of the condition and allow further conditions to apply if it is considered reasonable and necessary in accordance with guidance in the National Planning Practice Guidance (NPPG). This report will discuss the condition to be removed and the condition to be amended together with the relevant material considerations that apply to them.

Background

- 34 It has been accepted on all previous submissions and appeals that the family comply with the definition of Gypsy status. Mr Simmons continues to travel for work, along with his sons, Patrick, Myles and Jamie.
- 35 Mr and Mrs Simmonds continue to reside on site with their youngest son Bobby. Since the appeal decision in 2008 a number of their older sons have now married and also have children of their own;
- Patrick and his wife Jemma (Jimmy)
 - Myles and his wife Margaret (Helena, Myles and Irene)
 - Jamie and his wife Alex (Findlay)
 - Bridget Simmons (Mr Simmons niece) also remains on site
- 36 The gypsy status of the proposed occupiers is not relevant unless the decision maker finds it necessary to consider personal circumstances when determining the application.
- 37 This application is for the development of land to allow residential occupation by those that fall within the definition of 'gypsies and travellers' as cited Paragraph 1 of Annex 1 of the Planning Policy for Travellers Sites March 2012 (PPTS) It states:
- "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 dependant's educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such".*
- 38 It is known that the families on site are still part of a gypsy/traveller community and very active, by securing work away from home and abroad to secure a living. It is understood that Mr Simmons eldest son (Bobby) has withdrawn from further education and is now working with his father. Since the previous 2011 application Patrick's son is near to pre-school nursery age and understood that they are awaiting a nursery place to be allocated. With regard to Helena, Myles, Irene these children attend Halstead Primary School.
- 39 Under the previous application, the temporary permission was given to allow for the adoption of a Gypsy/Traveller Allocation DPD which unfortunately has been delayed.

Policy Issues

- 40 Adopted national policy is set out in PPTS adopted March 2012. Paragraph 25 states that local authorities cannot demonstrate an up-to-date five year supply of deliverable sites; this should be a significant consideration when determining applications for the grant of temporary permission.
- 41 In August 2011, the Council commissioned a new Gypsy, Traveller and Travelling Showperson Accommodation Assessment to provide an update on the current need in the District and to consider how the issues in the emerging national policy on local and historic demand could be addressed. This has been completed.
- 42 The Assessment draws a distinction between those households that identify themselves as having current and/or future needs for pitches and those that identify a need for a pitch and meet the planning definition of 'gypsies and travellers' or 'travelling show-people' as set out at Annex 1 of the PPTS.
- 43 The different levels of need identified are set out below:

Period	Level of need required
2012 - 2016	40
2017 - 2021	15
2022 - 2026	17
2012 - 2026	72

- 44 Given the need identified in the 2006 and 2011 assessments, the Council has, in accordance with national policy (previously in Circular 01/06 and now in PPTS), given favourable consideration to the grant of temporary planning permission for Gypsy and Traveller sites that are inappropriate because they constitute development in the Green Belt but are otherwise acceptable. This is intended to ensure that gypsies and travellers have some security in their accommodation until such time as sites are allocated for gypsy and traveller pitches in the Local Development Framework (LDF).
- 45 In August 2012 a "call for sites" was carried out. This involved contacting Gypsy and Travellers living in the District, Gypsy and Traveller organisations and all those who registered an interest in the issue through consultations on the LDF. Parish and Town Councils were also contacted for their views on any potential within their areas.
- 46 While the consultation draft of the Plan is being drawn up, significant progress has been made. This has focused on the assessment of the existing temporary and unauthorised sites and a review of the non-Gypsy and Traveller allocations proposed in the Allocations and Development Management Plan. This assessment will identify whether any of the proposed allocations are appropriate locations for new pitches and whether the existing temporary pitches should be made permanent. The same assessment will be made of any new sites proposed.
- 47 It is envisaged that a draft The Gypsy and Traveller Plan is likely to be adopted in mid 2016.
- 48 Paragraph 25 of the PPTS states that the lack of a 5 year supply of deliverable sites should be a significant material consideration in any subsequent planning

decision when considering applications for the grant of temporary planning permission.

- 49 As there is no real prospect of providing the gypsy/traveller families accommodation needs on an alternative sites. At present, there are no available spaces on public sites and there are long waiting lists for vacant pitches at Barnfield Park, Ash and Polhill KCC sites and the turnover of pitches are low. It is likely the families would have to double up on another site or result in moving onto other unauthorised encampments or the roadside.
- 50 At present the existing development plan does not identify any land suitable for traveller sites other than those previously mentioned. High value land within settlements is unlikely to be affordable and all areas outside settlements are Green Belt sites. It is likely that new sites in the District will be on Green Belt land.
- 51 It is clear now that until additional sites are identified through a Development Plan Document (DPD), there is no realistic prospect that an alternative site will become available for the applicant /families. There is acknowledgement that there have been delays to preparing the DPD which have come about through the proposed revocation of the South East Plan, but there is a good prospect of permanent sites being identified through the DPD process, to which the families could then seek to move or this site being allocated through the 'plan-led' process. However this does represent the failure to meet the need for pitches for Gypsies and Travellers due to the absence of such DPD.
- 52 This is compounded by not being able to demonstrate a 5 year supply of deliverable land to accommodate such families as cited by the in the PPTS.
- 53 Notwithstanding the above it is noted that on the 14 September 2014 the Government published a consultation document: *"Proposed changes to national planning policy and Planning Policy for Traveller Sites"*. The consultation document proposes to change the definition of "travellers" for planning related purposes so that it would exclude those who have permanently ceased from travelling. Furthermore it proposes changes to planning policy to deal with the intentional unauthorised occupation of sites, so that if a site were to be intentionally occupied without planning permission, that this would be a material consideration in any retrospective planning application for that site. However, given that the proposals are subject to consultation, little weight can be given to it in the determination of this application.
- 54 In a January 2014 written ministerial statement the Government sought to re-emphasise existing policy that *"unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the green belt."* Regard must be had to the Written Ministerial Statements of 1 July 2013 and 17 January 2014.
- 55 Also noted, changes have been made in National Planning Policy Guidance issued on 6 October 2014. This change to the NPPG lowers the emphasis to be placed on the weight afforded to the unmet need of traveller sites within the Green Belt. Therefore upon considering the guidance in the PPTS and the absence of available sites, significant weight can be afforded to this, whereas less weight can be given to the unmet need of the sites within the District.

Main Considerations

56 With regard to the removal of condition one and the variation of condition two, the main considerations of this application are:

- Impact upon the Green Belt;
- Impact upon the surrounding area;
- Highway Safety and Parking;
- Sustainability;
- Other matters

Impact upon the Green Belt

57 Para. 79 of the NPPF, states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.

58 Para. 87 of the NPPF states that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings inside the Green Belt is inappropriate unless, amongst other things, it is for agricultural and forestry, sports facilities, infilling, redevelopment of Brownfield sites as stated in para. 89.

59 Other forms of development not considered to be inappropriate in the Green Belt are set out in paragraph 90 of the NPPF. However, the proposed use of the site as a residential caravan site for one family and associated development would not fall within any of the above exceptions, or those contained in paragraph 90 of the NPPF. This includes material changes in the land use which do not maintain openness. Indeed, the PPTS (paragraph 14) confirms that "Traveller sites (temporary or permanent) in the Green Belt are inappropriate development". If proposal is deemed to be considered as inappropriate development is, by definition, harmful to the Green Belt. Then it is for the applicant to show why permission should be granted. Very Special Circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, substantial weight should be given to the harm to the Green Belt when considering any planning application concerning such development, as cited in para. 87 of the NPPF and supported by written ministerial statements dated July 2013 and January 2014 and the NPPG.

Extent of harm

60 This retention of the stationing of three twin unit caravans (mobile homes) and four touring caravans. These together with the fencing, hardstanding and utilities/shed that have already been erected, have a detrimental impact upon the openness of the Green Belt.

61 The introduction of the caravans, vehicles and other residential paraphernalia associated with the residential pitches diminishes the otherwise open nature of the site. The development encroaches into the countryside beyond the sporadic

existing built form of the village of Knockholt. As such, it clearly conflicts with one of the purposes of including land in the Green Belt.

- 62 The development overall, results in a loss of openness, which is the most important attribute of the Green Belt. As such, and in accordance with paragraph 89 of the NPPF and paragraph 14 of the PPTS, the proposal constitutes inappropriate development. Inappropriate development is by definition harmful to the Green Belt.
- 63 The weight to be attributed to the harm to openness and the conflict with one of the purposes of including land in the Green Belt due to encroachment is substantial.
- 64 This does not outweigh the presumption against inappropriate development, in order for inappropriate development to be permitted, very special circumstances need to be demonstrated which clearly outweigh the harm by reason of inappropriateness and any other harm. This will be considered after all other matters.

Impact on character and appearance of surrounding area

- 65 Policy EN1 of the ADMP requires that development respects and takes opportunities to enhance the character and distinctiveness of the locality. The form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard so that the distinctive character of villages is not damaged.
- 66 Policy SP1 of the Sevenoaks Core Strategy seeks for all new development to be of high quality and respond to the distinctive local character of the area.
- 67 Policy LO8 of the Sevenoaks Core Strategy requires that the countryside should be conserved and the distinctive features that contribute to its character protected and enhanced.
- 68 The site whilst it may appear isolated, is not a significant distance from the main residential development of Badgers Mount, this part of London Road is generally heavily parked by users of the train station, adding to the sense of urban character. Further west lies a small collection of commercial outlets, within the London Borough of Bromley, which when viewed cumulatively, the impact of the low level buildings proposed to be retained is limited upon the wider landscape character.
- 69 The views of the site continue along the path way which extends northwards over the railway line, but these views are screened to some extent by the surrounding vegetation. Whilst the site does have some visual impact from outside the site, again the low level structures and tidy appearance of the site limit the visual harm, particularly within the context of rural, residential and commercial uses within close proximity. The retention of the proposed use would comply with the above policies and would preserve the character of the area despite the concern raised by a Local Member.

Highway Safety and parking

- 70 Policy T1 of the ADMP requires that development should ensure satisfactory access for vehicles and pedestrians. The Kent Highway Services have raised no objection to the existing access or its use based on Highway Safety.

Sustainability

- 71 Paragraph 11 of the PPTS and Policy SP6 of the Core Strategy seeks to ensure that traveller sites are sustainable economically, socially and environmentally. Policies should promote peaceful and integrated co-existence between the site and local community, promote access to appropriate health services, ensure that children can attend school regularly, provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised roadside encampments and reflect the extent to which traditional lifestyles can contribute to sustainability.
- 72 In this case, it is clear that the site would continue to provide a settled base which in itself would facilitate access to medical facilities and education for the children. By the very nature of a nomadic way of life, the applicants travel to areas of work and stay for periods of time. By the very promotion of resulting the families to use of unauthorised roadside encampments and the unlawful doubling up on pitches by the family, the need for long distance travelling and the continued potential for environmental damage would be increased.
- 73 Overall, as it is acknowledged that the site is not within easy walking distances of shops and other facilities, it would nevertheless provide many of the other sustainable benefits referred to in PPTS. These include addressing the need for a settled base thereby facilitating access to health care, regular education for the children and the reduction in the possible environmental roadside encampments. These benefits outweigh the negative aspects relating to the location of the site in terms of sustainability and can be afforded limited weight.

Balancing Exercise/Very Special Circumstances

- 74 It is acknowledged that the retention of the land as a traveller site would represent inappropriate development within the green belt, with an associated harmful impact upon openness.
- 75 The very special circumstances of the applicant largely remain since the previous application(s). They were identified as:
- Unmet need for Gypsy sites in Sevenoaks;
 - Absence of alternative provision in Kent as a whole;
 - No pitches available on larger gypsy sites;
 - Provision of a 'settled base' for the families (access to services and education);
 - Removal of the family would cause significant upheaval to the educational needs of the children on site.
- 76 The above still applies albeit that they have been slightly weakened by one of the children is no longer at school. Notwithstanding this, the circumstances still do

exist and weight must be afforded to them and to the fact that the families have been on site for at least 12 years.

- 77 Upon considering the above, despite the concerns raised by the Parish Council and by the Local Member, the special circumstances that existed in the previous application still apply in this instance and substantial weight can be attributed to them.
- 78 However, as specified there is a clear unmet need for Gypsy sites in the District. This is coupled with the fact that the District currently has no identified or allocated land for such provision. The circumstances of the occupants as identified in previous paragraphs, also weigh in favour of the development and that they have remained on-site for the past twelve years. It is also reasonable to presume that that, given the level of unmet need, together with the extent of the green belt within the District, it is highly unlikely that alternative sites will be found through the allocations process that do not involve development in the Green Belt. As such there is an inevitability that some harm to the Green Belt will occur through the requirement to allocate sites for Gypsy / Traveller pitches, whether by definition, harm to openness or both. This is, to an extent, evident within the wording of Policy SP6 of the Core Strategy – criteria a) endorses the provision of sites within or close to existing settlements (and if close to but not within an existing settlement then this would infer a green belt location), whilst criteria e) seeks to prevent significant adverse harm to the landscape.
- 79 A permanent consent has been considered by the removal of the condition one but at present, is not justified as this would be premature to the formal consideration process of allocating gypsy and traveller sites within the DPD. It is recognised that the circumstances of the applicant remains (albeit slightly weakened) and the site has not been yet been allocated by the planning process. It follows; to permanently allocate the site for the occupation of gypsy/travellers at this stage would be premature. In recognition of this and discussing the situation with the Simmons, even though a temporary permission is the less favoured option, the family would be prepared to accept this.
- 80 As it is expected that the Gypsy/Traveller site allocation DPD is expected to be adopted in mid 2016, it would be reasonable to allow for the continued occupation for the site for a further two years until such time the Council has an adopted Gypsy and Traveller site allocation DPD. Two years would also allow for any slippage in the adoption timetable of the DPD. As such condition one can be varied accordingly in compliance with the NPPG.
- 81 Upon considering the variation of condition two to allow the unrestricted occupation of the site to be occupied by any gypsy and traveller that conforms to the statutory definition, this would in affect undermine the very special circumstances case which was an essential component of the original planning permission(s). It is recognised that there is a clear and immediate need of sites, helps in the justification for temporary sites, but not permanent sites, which are being considered in a 'plan-led' approach in accordance with Government Guidance as part of the Gypsy Traveller site consultation. As such, for the reason above the variation of condition two of planning permission SE/11/01510/FUL cannot be supported at this time as no very special circumstances would exist as current planning policy dictates that sites within the green belt are inappropriate development unless very special circumstances exist.

Other Matters

- 82 The objections raised by the Parish Council and third parties have been fully considered for the reasons cited above. As previously mentioned it is accepted that the applicants still retain special circumstances in this instance, the harm caused to the openness of the Green Belt can be outweighed by the 'special' circumstances.
- 83 The landscaping scheme required by condition 6 of SE/06/03260/FUL was submitted and approved, and is now established. There is a wire fence with conifer hedging installed along the boundary with the railway embankment. The comments made by Network Rail were based on the proposal for a permanent consent. It would be unreasonable to require a concrete, trespass resistant fence to be erected, with considerable cost to the applicant based upon a temporary permission. Given the landscaping and fencing installed to date, it is not considered any further fencing is justified.
- 84 It is recognised that the site is within a flood risk area, however the Environment Agency has not raised an objection in this instance as the site is within a 'dry valley'.
- 85 The opportunity has been undertaken to review the planning conditions of the 2011 permission. It is recommended that a further condition should be included that reflects current government guidance in relation to the definition of gypsy travellers.

Conclusion

- 86 Subject to the re-application of the conditions as previously discussed, it is recommended that this application should be granted in this instance as it can be demonstrated that very special circumstances still exist and a temporary consent for a further two years is justified. The removal of Condition two is not supported as it would undermine the special circumstances of the occupiers of the site and would be premature to the formal consideration process of allocating gypsy and traveller sites within the DPD and contrary to development plan policy.

Background Papers

Site location plan

Contact Officer(s): Sean Mitchell Extension: 7349

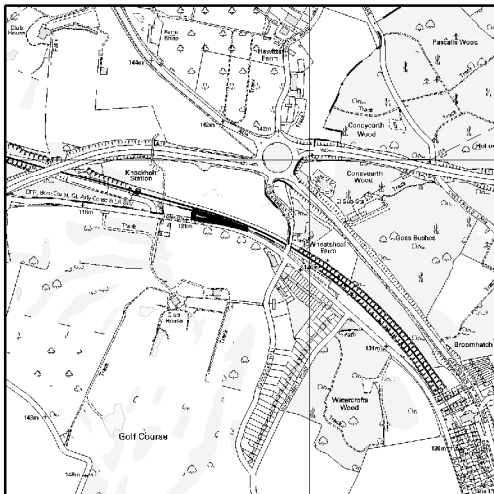
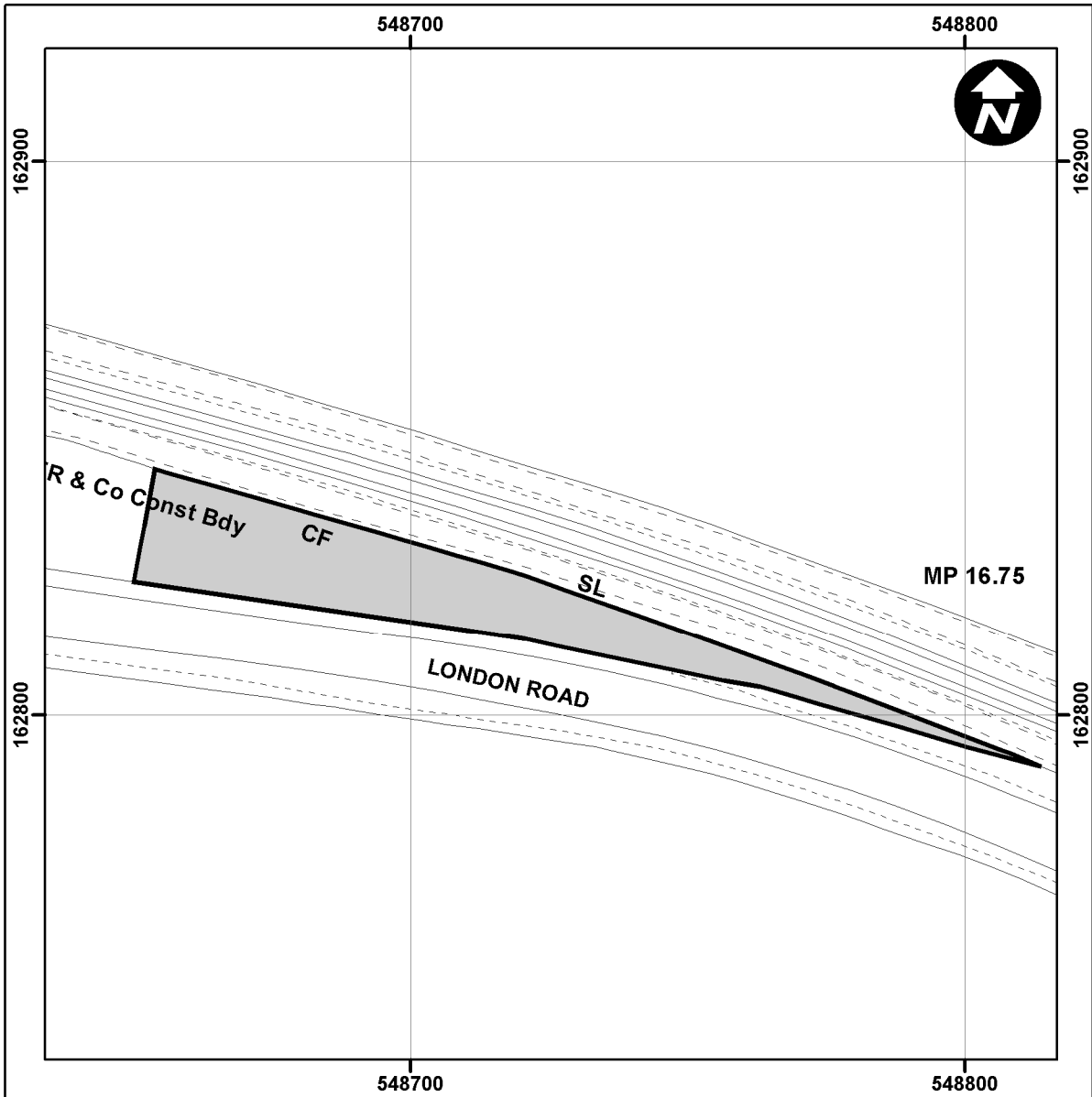
Richard Morris
Chief Planning Officer

Link to application details

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NBL30WBKOL000>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NBL30WBK0L000>



Site Plan

Scale 1:1,250

Date 25/02/2015



This map is based upon the Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
Sevenoaks District Council, 100019428, 2013.