

APPLICATION: MA/09/1891 Date: 16 October 2009 Received: 19 October 2009

APPLICANT: Noah & Mark Hilden

LOCATION: PETSFIELD, EASTWOOD ROAD, BOUGHTON MALHERBE,
MAIDSTONE, KENT, ME17 2DQ

PARISH: Boughton Malherbe

PROPOSAL: Change of use from grazing to residential for Gypsy family and
stationing of two mobile homes, one touring caravan, hardstanding
and associated works as shown on unnumbered site location plan
and unnumbered plan received on 19/10/09.

AGENDA DATE: 25th February 2010

CASE OFFICER: Peter Hockney

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Boughton Malherbe Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34, T13

South East Plan 2009: C4, H5

Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites*

1. HISTORY

MA/07/1516 – Change of use from grazing to residential for Gypsy family and stationing of two mobile homes and one touring caravan and installation of cesspool – WITHDRAWN.

2. CONSULTATIONS

3.1 Boughton Malherbe Parish Council wishes to see the application REFUSED and wishes it to be reported to Planning Committee for the following reasons:-

- The submitted ecological survey is flawed in its methodology.
- The development causes visual harm to the Special Landscape Area and the open countryside.
- The access is dangerous and on an unlit road.
- Pollution of adjacent fields and ditches caused by the cesspool.

- Concern that a precedent would be set for other similar developments.

3.2 Natural England is satisfied with the submitted survey information and that no great crested newts are present within the application site or any pond within 500 metres of the site. They are satisfied that no great crested newts are utilising ponds or terrestrial habitat that are to be affected by the proposals. They are satisfied that no reptiles are present within the application site. Natural England raises no objections to the application.

3.3 The County Gypsy Liaison Officer does not wish to make any comments on the application.

3. REPRESENTATIONS

4.1 Three letters of objection have been received on the following grounds:-

- The site address is incorrect.
- The drawings do not show all the development on site.
- The development is alien to the open countryside and Special Landscape Area.
- Concern that the submitted ecological survey is flawed and the development would be harmful to wildlife.

4. BACKGROUND

5.1 An enforcement investigation was originally opened in August 2006 with regard to the establishment of a caravan site. A previous application was submitted on this site (MA/07/1516) for a similar development being the change of use from grazing to residential for Gypsy family and stationing of two mobile homes and one touring caravan and installation of cesspool and was partly retrospective. This application was reported to Planning Committee with a recommendation for permission on 17 July 2008 but Members decided to defer the application for the following reasons:-

- (i) "That consideration of this application be deferred in order for an ecological survey (with particular regard to herptiles) to be carried out; and
- (ii) That a more detailed report be presented to the Committee when the results of the survey have been received."

5.2 Following this decision a number of letters were sent to the agent requesting the submission of the ecological report. No report was submitted and instead the application was withdrawn with a view to resubmitting an application when the report had been undertaken.

5.3 A new planning application (MA/09/1891) was submitted on the 22 October 2009, which included the submission of a Herptile Report, covering great crested

newts and reptiles, undertaken by Bramley Associates ecological consultants and surveyors, dated October 2009 and this is the application before Members tonight.

5. APPLICATION SITE

- 6.1 The application site is the northern part of an existing field within the open countryside, which also forms part of the Low Weald Special Landscape Area.
- 6.2 The site is predominantly grass, other than the northern most section where development has taken place. The remainder of the field to the south, which is also within the applicant's ownership is open grassland. The boundaries of the site are mature hedgerows and trees that are well established and not directly affected by the proposed development.
- 6.3 There is no external lighting proposed as part of this application. A hardsurfaced area adjacent to the access would provide the parking/turning area for the site with the only other hardsurfacing below the mobile homes.
- 6.4 The access point is in the north eastern corner of the application site onto Eastwood. This point is the only part of the site where the site immediately adjoins the boundary with Eastwood Road. The remainder of the northern boundary is separated from Eastwood Road by between 11 and 88 metres (approximately). To the east and west of the site are open fields.
- 6.5 The nearest residential property is Yew Tree Cottage (a grade II listed building), which is located approximately 96 metres from the site boundary in a north north west direction.

6. PROPOSED DEVELOPMENT

- 7.1 The application is retrospective and is for the change of use of land from grazing to residential for occupation by a gypsy family, including the stationing of two mobile homes and one touring caravan with hardstanding and associated works.
- 7.2 Those living on the site are Noah Hilden and his wife Josephine with their children (Josephine 18, Sherrey 18, Noah 10). The second mobile is occupied by Mark Hilden and his wife Barbara. The touring caravan on the site is kept empty and used for travelling and not permanent occupation.
- 7.3 Representations have been received with regard to a timber building that has been erected on site. This building does not form part of the application and does not have the benefit of planning permission.

7. CONSIDERATIONS

8.1 Gypsy Status and Need

8.1.1 Circular 01/2006 provides the following definition of gypsies and travellers:

"Persons of nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

8.1.2 Paragraphs 17 and 18 of the Circular refers to the changing patterns of employment amongst gypsies and travellers and the fact that the community has generally become more settled. The Circular states that there is a need provide sites in locations that meet the current working patterns of gypsies and travellers.

8.1.3 The agent for the applicant has stated that the applicants meet the definition of a gypsy and that Noah and Mark Hilden travel together to find work. This work is mainly landscape gardening. The usual route is to Scotland and via Manchester and Penrith on the way there and on the way back.

8.1.4 *Planning Policy Statement 3: Housing* makes specific reference to the need to accommodate Gypsies and Travellers. *Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites* gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.

8.1.5 There is a clear and identifiable need for gypsy accommodation within the Borough that stems from the Gypsy and Traveller Accommodation Assessment (GTAA), which was undertaken in 2005/06 and covers four local authorities – Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells. Based on this assessment, there is a need for some 32 new pitches in the Borough over the five year period which equates to 6.4 pitches/year. The extremely low turnover of pitches on the Council sites, which is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10.

8.1.6 Work has begun on a gypsy DPD with consultation expected spring 2010 with adoption planned for July 2011.

8.1.7 At the time of writing this report the number of pitches allowed since 2006 is as follows:-

- 27 permanent permissions

- 9 temporary permissions
- 12 permanent with personal permissions
- 15 temporary with personal permissions

8.1.8 From the above information it is clear that there is a significant need for gypsy sites within the Borough. This need and the absence of any allocated sites is given significant weight by Inspectors when determining appeals.

8.1.9 The Council does not have any public sites available and there are no new designations for public sites.

8.1 Visual Impact

8.2.1 The site is within the open countryside and the Low Weald Special Landscape Area. There are established Local Plan policies with a presumption against most types of development including ENV28 of the Maidstone Borough-Wide Local Plan (2000). In addition the site is within the Low Weald Special Landscape Area where priority is given to landscape considerations in accordance with ENV35 of the Maidstone Borough-Wide Local Plan (2000).

8.1.2 However, within Circular 1/2006 it is stated that gypsy sites located in the countryside are acceptable in principle and that local landscape designations (which includes Special Landscape Areas) should not be used in themselves to refuse applications for gypsy accommodation.

8.1.3 The site itself and the caravans would be well screened by established hedging and mature trees along the northern boundary of the site and the boundary with Eastwood Road. The caravans and development would not be prominent from any public vantage points along Eastwood Road. Furthermore there would be no views from any public footpaths, the nearest being KH328 located approximately 170 metres to the west, that would be prominent. It is important to note that gypsy sites do not need to be hidden from view and therefore views of the caravans through trees or hedges are not generally held to be prominent in the landscape and unacceptable.

8.1.4 In terms of light pollution, one must accept the use of external lighting, although there is none proposed as part of this application, at any residential site whether a gypsy site or permanent dwelling and it is not considered that appropriate lighting would cause unacceptable harm to the area visually. However a condition restricting the use of flood lighting could be attached to any grant of permission to control this.

8.1.5 Without the development or residential use being prominent from any public vantage points it is considered that there is no significant demonstrable visual harm to the character and appearance of the surrounding area. In the absence of such harm, I consider that the impact on the character and appearance of the Special Landscape Area and open countryside to be acceptable.

8.3 Ecological Considerations

8.3.1 The submitted survey was undertaken by Bramley Associates ecological consultants and surveyors, dated October 2009. The survey work was undertaken in July-August 2009, with further information examined from a previous amphibian survey undertaken by the same company that centred on Yew Tree Farm to the north west of the site.

8.3.2 The survey that was undertaken on 8 separate visits indicates that the site consists of very short grassland that is grazed/mown and provides poor herptile habitat, except in a few limited areas adjoining surrounding hedgelines and found no evidence of great crested newts or reptiles. The report recommends an ecological enhancement in the form of a hawthorn hedgerow to be planted to the southern boundary of the application site to allow increased habitat connectivity for a range of animal and plant species. This requirement should be secured by way of a condition in accordance with the guidance in PPS9.

8.3.3 Boughton Malherbe Parish Council and neighbouring residents have raised concerns with regard to the competency and methodology of the report. However, Natural England are satisfied with the methodology of the report and its findings and raise no objections to the application. Therefore I have no reason to consider that the survey was not correctly undertaken.

8.3.4 There are no designated ecological sites here or adjacent to the application site.

8.4 Impact Upon Residential Amenity

8.4.1 The mobile homes at the site would have no significant effects on the privacy of existing dwellings within Eastwood Road. The nearest dwellings are Yew Tree Farm, approximately 96 metres from the site and Hillview, approximately 112 metres from the site. These distances ensure that there would be no adverse impact in terms of loss of privacy, light or an overwhelming impact.

8.4.2 With regard to noise disturbance from the site, there would not be a reasonable expectation for a significant level of noise generation from the site. A residential use is not a significant noise generator and any complaints regarding excessive noise would be assessed under the Environmental Health Legislation.

8.4.3 In terms of light pollution, it is not considered that appropriate lighting would cause unacceptable harm to the neighbouring properties to warrant refusal. However a condition restricting the use of flood lighting could be attached to any grant of permission to control this.

8.5 Highway Safety Considerations

8.5.1 The site is served by an existing access onto Eastwood Road. Whilst no comments have been received on the current application, the KCC Highways Engineer has considered the proposals under the previous application, MA/07/1516, and raised no objections in terms of highway safety implications on Eastwood Road.

8.5.2 There have been no significant changes to the circumstances of the site, the development or the surrounding road network to justify reaching a different conclusion on the matter of highway safety.

8.6 Other Considerations

8.6.1 In terms of sustainability, the site is located relatively close to Kingswood, Harrietsham, Headcorn and Lenham and is approximately 0.5 miles to the village boundary of Grafty Green and 1.2 miles to the village of Ulcombe. The closest Post Office is 0.7 miles away in Grafty Green, the closest dentist is 3 miles away in Headcorn and the closest GP is 2.2 miles away in Kingswood.

8.6.2 Whilst the site is not within a village or immediately on the edge of a village the above distances indicate that it is not an isolated site and would provide a settled base without the need for long-distance travelling as outlined at paragraph 64 of Circular 01/2006.

8.6.3 I do not consider that the site is in such an isolated position that would warrant refusal on sustainability grounds.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

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

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.

3. No more than three mobile homes, as defined as defined in Section 24 (8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than two shall be static caravans or mobile homes) shall be stationed on the land at any one time;

Reason: In the interests of visual amenity in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping including a double staggered hawthorn hedgerow along the southern boundary of the site, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000), policy C4 of the South East Plan (2009) and guidance contained in PPS9.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in PPS9.

6. Prior to the commencement of development full details of foul and surface drainage shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;

Reason: To ensure adequate drainage is proposed and to prevent pollution in accordance with policies NRM1 and NRM4 of the South East Plan (2009).

7. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

8. Prior to the commencement of development full details of the proposed surfacing for the areas of hardstanding shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details;

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

9. If the use hereby permitted ceases all caravans, structure, equipment and materials brought onto the land for the purposes including the hardstanding and utility room of such use shall be removed;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and C4 of the South East Plan (2009).

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.