

APPLICATION: MA/10/0903 Date: 23 May 2010 Received: 7 June 2010

APPLICANT: Mr J Lee

LOCATION: MAPLEHURST PADDOCK, FRITTENDEN ROAD, STAPLEHURST,
TONBRIDGE, KENT, TN12 0DL

PARISH: Staplehurst

PROPOSAL: Continued use for the stationing of a mobile home, touring caravan,
day room and stables for a gypsy family

AGENDA DATE: 4th November 2010

CASE OFFICER: Richard Timms

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

- It is contrary to the views expressed by Staplehurst Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV34

Government Policy: PPS1, PPS3, PPS7

Government Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites

1. HISTORY

- MA/09/0504 Extension of existing hard surface to create single vehicle access and erection of 2 stables, hay store and tack room (re-submission of MA/08/2276) – APPROVED WITH CONDITIONS
- MA/08/2276 Extension of existing hard surface to create single vehicle access and erection of 2 stables, haystore and tackroom – REFUSED
- MA/08/0366 Variation of condition of Appeal decision APP/U2235/C/06/2030038 to allow an additional touring caravan to be stored on the site (not for habitation) – APPROVED WITH CONDITIONS
- ENF/9045 Enforcement Notices for the use of the site for residential with hard surfacing, utility building and utility box change – APPEAL ALLOWED, ENFORCEMENT NOTICES QUASHED AND PLANNING PERMISSION GRANTED (July 2007)

MA/06/1298 Erection of stable block and change of use to keeping of horses –
REFUSED

MA/05/0241 Change of use of agricultural land to the keeping of horses, plus creation
of access and erection of a stable block – REFUSED (APPEAL DISMISSED)

2. CONSULTATIONS

3.1 **Staplehurst Parish Council:** Recommend refusal and request that the
application is reported to Planning Committee.

"Whilst the site was kept tidy it remained sporadic and undesirable development in the countryside, had very poor access and was in a flood-risk area. Councillors considered it should not be made a permanent feature of the landscape in advance of the completion of the MBC Gypsy & Traveller Policy. Perhaps a short-term interim extension should be considered. For these reasons Councillors recommended REFUSAL and requested that it be reported to Planning Committee."

3. REPRESENTATIONS

No neighbour representations have been received.

4. CONSIDERATIONS

5.1 Site & Setting

5.1.1 This is an application to allow continued occupation of a residential gypsy site following the expiry of a temporary permission granted at Appeal in 2007 at Maplehurst Paddock, Maplehurst Lane, Staplehurst. The site is located within the open countryside designated as the Low Weald Special Landscape Area (SLA) in the Local Plan and is just over 1.5km from the centre of Staplehurst.

5.1.2 The application relates to an existing gypsy site granted a 3 year, personal permission at an enforcement appeal in July 2007. The site is south of, and set back around 65m from Frittenden Road on Maplehurst Lane which is a private single track road that provides access to other dwellings and gypsy sites (two approved and one subject of an application). The site is on the east side of the lane bounded by open fields on three sides and the lane on the other. The applicant owns adjoining land to the east where he keeps his horses. Around 70m south of the site is a smaller gypsy site for which planning application MA/10/0157 has been submitted and is still under consideration.

5.1.3 Access to the site is in the northwest corner which leads onto a shingle stoned area which is tarmaced further south. This hard surfaced part of the site measures around 16m in width and 50m in length. (Please note the submitted block plan is not accurate) The applicant's mobile home is towards the southern

end of the site with the timber day room in front, near the west boundary. The touring caravan is stored on an area of grass to the rear of the mobile home and a shed and children's climbing frame are to the rear of the mobile on a grassed area. Further east of the site are the timber stables approved under application MA/09/0504, which are tied to the occupation of the site. The site is connected to mains electricity and has a septic tank for sewage disposal.

- 5.1.4 The residential part of the site is bounded by 1.8m close-boarded fencing on the north, west and south sides which is screened by hedging in places. The applicant informs me that he has strengthened the hedging between the fencing and the private lane on the west side.

5.2 Proposed Development & Planning History

- 5.2.1 Permission is sought to continue to live on the site following the expiry of the temporary permission in July 2010. The development is therefore a change of use of land to residential for a gypsy family with the siting of 2 caravans (one being occupied and the other a tourer), a timber day/utility room and hard surfacing. Having spoken to the applicant, I understand a permanent permission is sought.
- 5.2.2 As stated above, temporary and personal permission to Mr Lee, his wife and their children was granted for the site at Appeal in 2007 (Decision attached at Appendix 1). To summarise, in her appeal decision the Inspector concluded that the site did not benefit from a good level of natural screening and the applicant's mobile home would be visually intrusive. However, she considered the development to be domestic and small scale and to follow the pattern of fragmented residential development seen in the area. She also considered the visual harm was limited in scope, very localised and not visually intrusive in the wider area. However, conflict was still found with objectives to protect and enhance the countryside and Special Landscape Area under Local Plan policies ENV28, ENV34 and H36 (no longer saved) and Structure Plan policies.
- 5.2.4 However, taking into account advice within Circular 01/06 the Inspector concluded that there was a clear unmet general need for gypsy accommodation, a personal need for the family and that the site would provide a settled base for them. There were no identified adverse impacts upon residential amenity, highway capacity or highway safety and the site was not in an area recognised to be at a high risk of flooding. The development was considered to respect the scale of the nearest settled community, is outside a nationally designated area and the harm to local countryside character was considered to be limited.
- 5.2.5 In the absence of an alternative lawful site for the applicant, the Inspector noted that a site allocations DPD was being prepared and there was a reasonable expectation that circumstances would change and new sites would be likely to

become available within a three year period. On this basis, whilst accepting visual harm to the countryside, on balance this was outweighed by the need and she allowed a 3 year permission made personal because of the family's immediate personal need for accommodation.

5.2.6 Since that decision the applicant has also obtained permission for a touring caravan on site (not for habitation) and the stable block.

5.3 Assessment

5.3.1 The main assessment for this application to continue to use the site for residential use is the reason for granting the temporary permission in the first place. As such, the appeal decision is a major material consideration. The only policy or guidance available is contained within Circular 01/2006.

5.3.2 The reason for the temporary permission was that visual harm was being caused but this was outweighed by the general and personal need for a residential site and that allocated provision would become available through the DPD after the temporary period of three years.

5.4 Visual Impact

5.4.1 There have been no significant visual changes at the site and I still consider that the development is causing some harm to the area. The mobile home and parts of the fencing are still clearly visible from parts of Maplehurst Lane with some views from Frittenden Road further to the northwest. I agree with the previous Inspector that the harm is localised as the main views are from the private road, but nonetheless it still erodes the scenic quality of the area and causes harm to the countryside and Special Landscape Area hereabouts as was accepted by the Inspector.

5.5 General Gypsy Need

5.5.1 There is a requirement to provide gypsy accommodation and this is set out in Government policy in both *PPS3: Housing* and in *Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites*. To ensure that the Council provides adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

5.5.2 The GTAA concluded that there was a need for gypsy accommodation and quantified that with a figure of 32 new pitches over the five year period from April 2006 to April 2011.

5.5.3 However, this figure assumed that 3 pitches/year would become available on the Council's public sites. In fact pitch turnover on these sites has been very low and

only 3 pitches have become available since 2006 and not the 15 anticipated. With this low turnover the pitch requirement increases to 44 pitches for the whole five year period.

5.5.4 With the revocation of the South East Plan, which was to provide pitch numbers for the Borough, the Council now must to set its own housing numbers for gypsy pitches. To establish this provision for the period after April 2011 work is continuing with the gypsy DPD, which will allocate sites and the timetable is likely to run just behind the timetable for the Core Strategy. It is anticipated that sites will be allocated towards the end of 2012.

5.5.5 At the time of writing this report the total number of permanent pitches allowed since April 2006 is 51 pitches and can be broken down as follows:-

- 40 permanent permissions
- 11 permanent personal permissions

In addition there have been the following numbers of temporary permissions granted since April 2006:-

- 8 temporary permissions
- 16 temporary personal permissions

5.5.6 Whilst 11 permanent permissions are restricted (personal), so do not meet a general gypsy accommodation need, they have clearly meet a need for accommodation during the 2011-16 period and thus contribute to the supply. As such I consider that 51 permanent pitches (combining unrestricted and personal) have been permitted since April 2006, above the amended 44 pitch target. There are also still 5 months until the end of the assessed period (31 March 2011).

5.5.7 Therefore, I consider that the Council is clearly meeting the general gypsy need identified in the GTAA through the development management process for the period 2006-2011. However, with April 2011 approaching it will become increasingly necessary to give weight to the 2011-16 period. Clearly, the need to provide sites does not end in April 2011. However, I am unclear as to what the extra need will be for the period 2011-16.

5.5.8 There is another assessment of need that Inspectors give weight to and that is the number of unauthorised sites in the Borough. Currently, the number of unauthorised sites stands at 29. This figure excludes the tolerated sites at Plum Tree Bottom in Stockbury. I consider that this figure does indicate a level of need, however, I do not believe that this indicator of need is necessarily an overriding one.

5.6 Personal Need

- 5.6.1 The applicant, his wife and 2 children live at the site and the children (4 and 7 years old) both attend Staplehurst Primary School. Mr Lee and his family previously lived at a site in Headcorn and so have some local connection and used to travel in Kent and Dorset. Due to overcrowding and family tensions they moved to the application site to bring up the children. The applicant has informed me that as before, he and his family currently have nowhere else to live and there are still tensions with his family. Although he did state that he has not had a thorough search for alternative sites believing that he would face problems in obtaining a permanent permission.
- 5.6.2 There is a lack of alternative accommodation supplied by the Council in Maidstone with no vacancies on the Council's public sites and no sites have been brought forward in a DPD document yet. Unfortunately therefore, the Council cannot direct the applicant to an alternative site. As such, there is a clear personal need of the applicant's family for somewhere to live. Whilst, there is no overriding need to live at this specific site, the family are settled within the community with children in the local school. I consider the lack of alternative sites weighs in favour of the applicant's personal need for a place to live.

5.7 Other Issues

- 5.7.1 I agree with the Inspector that the site is not so unsustainable that it would warrant refusal bearing in mind Circular 01/06 guidance. Journey distances to Staplehurst are short (around 1.5km) which provides access to GP services, education and other services.
- 5.7.2 The site would not have any unacceptable impact upon the living conditions of neighbouring dwellings from outlook or privacy with the nearest houses being 2 Maplehurst Cottages around 50m to the north and Folly Farm around 50m to the south. Previously a generator was used but the site is now connected to mains electricity so there are no significant noise issues.
- 5.7.3 The vehicles movements associated with the site would not result in a large increase above those currently on Maplehurst Lane and onto Frittenden Road. No highway objections were raised previously and I do not consider any grounds to object now. I do not consider continued use of the site would be detrimental to highway safety.
- 5.7.4 Localised flooding was raised as an issue previously, however the site is not located in an area identified as having a high risk of flooding by the Environment Agency. There is no evidence to demonstrate that there are serious implications for living conditions and therefore not sufficient grounds to withhold permission on this basis.

5.7.5 No issues relating to ecology were raised by the Inspector under the appeal in 2007 and I therefore do not see this as a significant issue under this application to renew the permission.

5.8 Conclusions

5.8.1 The site still causes visual harm to the area as it did before but the Inspector felt this could be resolved through alternative site provision via the DPD but work on this is still ongoing. The general need for site provision is not as great as it was in 2007, however there is still an ongoing general need to provide sites and this has still not been met or provided through the DPD process. The applicants still have a personal need for a place to live with no alternative available. Therefore, I do not consider circumstances have changed significantly since the last appeal decision and recommend that a further temporary and personal permission is granted. Sites are expected to be allocated towards the end of 2012 and it will take additional time to gain planning permission for sites. I therefore recommend a temporary permission for a further 3 years.

5.8.2 At the appeal in 2007 the Council put forward conditions requiring a landscaping scheme and protection of trees and hedgerows. The Inspector considered that as the permission was temporary a new landscaping scheme was unreasonable but retention of appropriate landscape features was appropriate. Whilst another grant of permission would further increase occupation of the site, it is still another temporary permission and I agree that it would be unreasonable to impose landscaping conditions on a temporary permission.

5.8.3 However, I can find no record of the site layout details being discharged under the previous permission as required by condition. As the submitted block plan is not entirely accurate I will therefore attach a condition to cover and secure the internal layout of the site, the positioning of the touring caravan/vehicles, boundary treatments and the retention of hedging around the site. This will largely confirm the current layout on an accurate plan for clarification but I consider the touring caravan could potentially be moved closer to the mobile home to reduce visual impact.

5.8.4 For the above reasons I recommend a further temporary and personal permission is granted subject to the following conditions.

5. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr Lee, his wife and children and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the land is occupied by them, whichever is the

shorter.

Reason: The development is considered to cause visual harm to the character and appearance of the countryside and Special Landscape Area contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7. This identified harm is considered to be outweighed by the unmet general need for accommodation for gypsies and travellers and the personal accommodation needs of the applicant and there is a reasonable expectation that sites will become available through the production of a Gypsy & Traveller Development Plan Document by the end of the period specified. This is in accordance with advice contained within ODPM Circular 01/2006.

2. When the land ceases to be occupied by Mr J Lee, his wife and children or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the land in connection with the residential use of the site, shall be removed and the land restored to its former condition;

Reason: To appropriately restore the site in the interests protecting the character and appearance of the countryside and Special Landscape Area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

3. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

4. Within 1 month of the date of this decision a scaled plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall show: (a) the internal layout of the site, including the identification of the area to be used for residential occupation, the positions of the caravans within that area and parking provision; (b) boundary treatment, including details of fencing and trees and hedgerows to be retained; (c) any external lighting.

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials;

Reason: To prevent inappropriate development and safeguard the amenity,

character and appearance of the countryside and nearby properties in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

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 there are no overriding material considerations to indicate a refusal of planning consent.