

APPLICATION: MA/10/0504 Date: 5 March 2010 Received: 23 March 2010  
APPLICANT: Mr M Cash  
LOCATION: GREEN TOPS, SYMONDS LANE, YALDING, MAIDSTONE, KENT, ME18 6DD  
PARISH: Yalding  
PROPOSAL: Planning application for the change of use of land to residential use for stationing of 1no. mobile home and 1no. touring van and for erection of utility block and associated works including surface area treatment, cesspit and boundary treatment  
AGENDA DATE: 25th November 2010  
CASE OFFICER: Amanda Marks

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

- it is contrary to views expressed by the Parish Council

## **1 POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, T13  
Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006  
South East Plan: C4, C5

## **2 HISTORY**

MA/03/1756 Change of use to residential and the stationing of one mobile home for gypsy family Refused 22/12/03, appeal dismissed 15/12/04

Extensive planning enforcement history – see main report for details

## **3 CONSULTATIONS**

- 3.1 **Yalding Parish Council:** strongly object to the application to the application. "The development is visibly intrusive within the countryside and will result in a concentration of such development which would be harmful to the character of the area. The site is situated within an area identified as being at a high Risk of flooding which would be inaccessible during a flood event. This would cause an unacceptable risk to life."
- 3.2 **Environmental Health Officer:** "The site should be used for residential purposes only and maintained in good order. It should not be used for business

purposes, it should also not be used for the use and/or storage of commercial vehicles. Any tourers on site should not be used for habitation.”

Foul sewage details are required by way of condition; informatives are suggested.

- 3.3 **Southern Water:** “The Environment Agency should be consulted and the applicant is advised to consult the EA directly with regard to the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic tank to ensure it’s long term effectiveness. The Council’s technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.”
- 3.4 **EDF Energy:** no objection
- 3.5 **Upper Medway Internal Drainage Board:** The Board objects on the grounds that the entire site would be surrounded by flood water and in flood conditions access in to and out of Symonds Lane would be impossible. This type of application could put an unnecessary strain on the emergency services. Also, in line with PPS25 there is a risk to life and caravans/mobile homes should not be located in this area.
- 3.6 **Southern Gas Networks:** advice is offered with regard to working practice around gas mains.
- 3.7 **Environment Agency:** The site is situated within Flood Zone 1 which represents a low probability of flooding, therefore, we have no objection to the proposals.

The Local Authority should be aware that the site may become surrounded by flood water during an extreme flood event. We would recommend that the Local Authority liaise with their Emergency Planning Department in order to ascertain whether Emergency Services could access the site should there be a need to undertake a rescue operation.

#### **4 REPRESENTATIONS**

4.1 Two neighbour letters have been received raising the following objections:

- Harmful impact on the countryside and character of area
- Not the same circumstances as the adjoining sites allowed on appeal
- Loss of agricultural land
- Site developed without planning permission
- Clarification on disposal of surface water

## **5 CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The application site lies in the open countryside, on the northern side of Symonds Lane and just over 1km to the south-west of Yalding Village. The site does not fall within any specific landscape designations; it is in an area with a low probability of flooding. The application site adjoins two other gypsy sites to the west known as Pear View and Pear Paddock.
- 5.1.2 The site has a tarmacadam entrance off Symonds Lane which becomes block paving for approximately 10m and then shingle for the remaining drive to the rear of the site. The site is broadly 'L' shaped with an approximate length of 62m from Symonds Lane to the rear. The site widens at 35m along this drive whereby an area 10m x 12m is lawn with children's play equipment and the remaining area is shingle and hardstanding with 2 touring caravans, a utility building and a timber garden room/leisure building. The site is bounded by a close board fence approximately 1.8m on all boundaries; dense conifer hedging of approximately 4m high aligns the eastern and southern lawn boundaries; there are what appear to be sweet chestnut trees (5m high) running the length behind the fencing on the northern boundary and both groups of and individual poplar trees scattered along the eastern boundary. The western boundary adjoins 'Pear View' (a Coster/Coates site) where there is a mix of willow and ash specimens behind the boundary fence. There are also three low level ornate style lamp posts within the site and one light at the entrance.
- 5.1.3 At the time of the most recent site visit (November 2010) there were two touring caravans on the site, however permission is sought for one tourer and one static caravan. A block plan has been provided which shows the static caravan to be located close to the far end of the site orientated towards Symonds Lane yet set to the side of the access drive. Designated parking is shown behind the static caravan for 2 cars. A space is shown for the tourer to be situated adjacent to the lawn area and eastern boundary, this is in front of the static and adjacent to the existing utility block (to be replaced) to the north. The plan also shows a garden waste enclosure, bin and gas bottle store and electricity generator in the north east corner of the site. Plans show a static caravan of 11m long x 3.5m wide with an overall height of 3.9m to the ridge. A dayroom is shown 8.5m long x 3.5m wide with a pitched roof and overall height of 3.9m to the ridge. This would replace the existing facility on site of a similar footprint.
- 5.1.4 Aside from the adjoining gypsy sites, the next closest residential site is Jubilee and Lees Cottages which are approximately 200m to the west of the site to the east lies Mill Place farmhouse on the southern side of Symonds Lane approximately 260m. A fairly substantial pond lies 180m to the east and a public footpath 190m to the east running north and south and then turning west beyond the rear of the site by 170m. Views of the site are substantially from

within or at the entrance, however there are medium and long range views through hedgerow breaks along the northern side of Symonds Lane to the east of the site at a distance of approximately 150-200m. From the west any caravans that can be glimpsed are those of Pear View/Pear Paddock.

## 5.2 Site History

- 5.2.1 This is a retrospective application for a gypsy site which has been occupied by the applicant Mr Cash his wife and their 3 children since June 2006. Prior to this the site was occupied by a Mr Draper and there is a long planning/enforcement history which dates back to the year 2000.
- 5.2.2 An enforcement notice was served in 2000 covering the use of this site together with Pear Paddock and Pear View. Three further notices were served in 2002 and 2003. The enforcement notices relevant to this application relate to the use; the driveway and the hardsurfacing at the rear of the site. An appeal was lodged against the enforcement notices, two of which were upheld and allowed a compliance time of 6 months for the site to be returned to its former condition. An interim injunction and full injunction were awarded against the owner at the time, a Mr Draper, and whilst the Council were preparing committal proceedings the site was sold to the current owner Mr Cash. Prior to the site being sold Mr Draper submitted a planning application (MA/03/1756), and this was refused and upheld on appeal. Of significance to the determination of this application is that the Inspector concluded that the development would have a materially harmful affect upon the character and appearance of the countryside; and that the development would unacceptably increase highway dangers on this part of Symonds Lane (Decision Dec 2004 Appendix A).
- 5.2.3 It is also of importance to consider the outcome of the two recent appeals on the Coster & Coates sites. Planning applications were refused in August 2009 and subsequently allowed on appeal for a temporary period of 3 years. The inspector balanced the various components of the two cases and concluded that due to personal circumstances, the lack of alternatives for the occupants and the absence of a DPD that a temporary permission could be justified. The inspector made it clear that he was not in anyway suggesting the sites would be appropriate for permanent permissions as they did detract from the character of the area and countryside, both cumulatively and individually, however he gave substantial weight to unmet need. I have attached the appeal decisions as appendices to this report which are material considerations in the determination of this application (Appendix B).

## 5.3 Gypsy Status and Need

- 5.3.1 It is accepted that 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 provided adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

5.3.2 The GTAA was undertaken by consultants on behalf of the Council and three other local authorities (Ashford, Tonbridge & Malling and Tunbridge-Wells). 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. This equates to a figure of approximately 6.4 pitches per year for the five year period.

5.3.3 The GTAA provides further assessment of the need by examining the turnover of pitches on the two public sites. The GTAA concludes on this matter that 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. This yearly requirement equates to between 40 and 50 pitches for the whole five year period.

5.3.4 To establish the need for the period after April 2011 work is continuing with the gypsy DPD, which will endeavour to allocate sites and the timetable is likely to run parallel with the timetable for the Core Strategy.

5.3.5 At the time of writing this report the total number of permanent pitches allowed since April 2006 is 52 pitches and can be broken down as follows:-

- 41 permanent permissions therefore passed the GTAA figure
- 11 permanent personal permissions

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

- 8 temporary permissions
- 17 temporary personal permissions

5.3.6 The Council has permitted 41 permanent pitches since April 2006, in excess of 32 unrestricted permanent gypsy pitches and is above the target given by the GTAA with over months until the end of the assessed period (31 March 2011).

5.3.7 If the higher number, due to the low turnover of public sites, (i.e. 40-50 pitches needed) is used to assess need I consider it appropriate to include those permanent personal permissions as whilst they are specific to an individual/family they do provide a permanent solution to their need. Therefore using this assessment the number of permanent permissions is 52.

5.3.8 I consider that the Council is currently meeting the general gypsy need identified in the GTAA through the development management process.

5.3.9 Planning Inspectors also give weight to the number of unauthorised sites in the Borough. Clearly this site has been unauthorised for a substantial number of years and would have been included in previous figures that the Inspectorate has taken account of. At present there are 29 unauthorised sites in the Borough – excluding the tolerated sites at Plum Bottom, Stockbury. This figure does indicate a level of need, although I do not consider this to be an overriding need.

5.3.10 With April 2011 approaching it will become increasingly necessary to give weight to the 2011-2016 period and early indications is that the need figure for this period is greater than the 2006-2011 period.

5.3.11 The need situation has moved on since the Coster & Coates appeal decision. However, as mentioned above it will soon be the start of a new assessment period (2011-16).

#### 5.4 **Personal Need**

5.4.1 There are two of the applicant's children whom attend the local school in the village, with one other registered to attend on reaching of age. Clearly a settled base does allow them to progress through the education system. There has been no indication that there are any particular special educational needs that can only be met by staying at this school and living on the application site. However, the applicant has stated that there is not an alternative site available to them at this time and the site does provide/has been providing a settled base to enable the children to attend school. There is evidence from Planning Inspector appeal decisions that considerable weight is given to human rights and issues such as education. I consider the fact that the family has remained on site for such a length of time already and that the children are settled in school has to be given weight in the determination of this application.

5.4.2 The educational needs together with the lack of alternative accommodation at present and the fact that the family have lived on the site since 2006, are all contributory factors in this application. I consider that the lack of alternatives when taken with the length of time the family have occupied the site, means consideration must be given to a temporary permission to meet the immediate needs of the family.

#### 5.5 **Visual Impact**

5.5.1 The site is within the open countryside, although there is no specific policy designation. Circular 1/2006 states that gypsy sites located in the countryside are acceptable in principle. Whilst it is accepted that there is always likely to be some visual impact from gypsy development, it is a question of the level of harm

that is caused. There is an Inspectors decision on this site which already states that the development causes visual harm to the locality and there have been no significant changes to the locality which would alter this view.

5.5.2 The site and caravan would be visible from medium/long distance views along Symonds Lane in the spring/summer months – more so in the winter. The mixed native hedgerow of approximately 2.5m high that runs along Symonds Lane from the application site to the east acts as effective screening until it finishes close to the PRow. At this point there are individual trees and large gaps where the development can be seen across the fields. The length of expanse of close board fencing aligning the eastern side of the driveway is quite a suburban feature in this location – the greatest impact being close range but it is also visible from across the fields from the PRow. Opportunities for enhancing the landscaping are limited due to the extent of hardstanding across the site which is taken to the site boundaries and the surrounding fields not being with the applicants ownership/control.

5.5.3 When approaching the site from the west the development is shielded by Pear View and Pear Paddock sites. From the east the top of the existing utility building and tower on the site can be seen as mentioned previously from the PRow where the hedgerow stops and there are gaps in the vegetation. The development of the site both at close range and distance clearly does cause harm to the character of the countryside in this location, the harm is greater when taken in the context of the adjoining sites. This is the view supported by two different planning inspectors on both this site and the adjoining sites.

## 5.6 **Residential Amenity**

5.6.1 Objections have been received from residents in Symonds Lane on the grounds of harm to the character of the area, light pollution and insufficient personal circumstances being cited to allow a temporary permission as given on appeal on the adjoining sites. As stated the closed residential property is a distance of approximately 200m away and I do not therefore consider there to be an issue of harm to residential amenity.

## 5.7 **Highway Safety**

5.7.1 One of the previously stated reasons for refusal on this site in 2006 related to an increase in the risk of highway safety. In the more recent 2009 Planning Inspectors decision on the Pear View and Pear Paddock sites, highway safety was discussed for the same reason. Previously the Highway Authority raised objection to the access onto Symonds Lane – site lines were inadequate, however this was retracted in 2009 at appeal on the adjoining two sites. The concern was lack of visibility and the potential for an increase in collisions. However, in addition to the Highway Authority removing its objection, the Inspector also considered 'the level of risk' to be quite low. The site lines at this

site are 30m to the east and 20m to the west; the average speed limit is 25 - 30pmh. The issues are not dissimilar to the circumstances of the adjoining sites with land outside the applicant's control that would be required to improve sight lines. I have spoken with the Highway Authority who do not wish to raise objection to the application and are satisfied that on a country lane of this width and speed the sight lines, whilst not ideal, will suffice.

## **5.8 Flooding**

5.8.1 The site lies in Flood Zone 1 – an area with a low probability of flooding. Wider areas surrounding this site are at greater risk of flooding and this site together with Pear View and Pear Paddock in effect form an island. The Environment Agency raise no objection on flooding grounds but suggest the Council's Emergency Planning Officer may wish to comment on a strategy in the event of surrounding areas flooding.

5.8.2 In the 2009 Inspectors appeal decision on Pear View and Pear Paddock the Inspector stated 'I consider that the threat to life from river flooding would be insignificant. I therefore agree with the 2007 Inspector that there is no reason to exclude development from the appeal sites themselves.'

5.8.3 From the above comments and taken together with the Environment Agency raising no objection on flooding, there is no objection on flood risk grounds to the application.

## **5.9 Ecological Considerations**

5.9.1 Ecological implications were not a matter for consideration on the previous Inspectors decision on the adjoining sites. The application site is primarily hardstanding whether block paving or shingle and has been so for a substantial amount of time. The lawn area is kept as short grassed garden land. The hedgerows and trees beyond the site boundaries are unaffected and I do not consider this development would affect the connectivity and migratory routes of any existing wildlife in the locality. There are no indicators as per Natural England's standing advice that would require the submission of an ecological survey and from experience on a site as this Natural England would raise no objection on ecology grounds.

## **5.10 Sustainability**

5.10.1 The site is located relatively close to the village centre of Yalding. Yalding contains a number of services and shopping facilities. It is where the applicant's children attend school. There are bus services and a train station. I do not consider the site to be isolated in light of a 1km distance to reach the village centre.



## **6 CONCLUSION**

6.1.1 In light of the above analysis it is apparent that the development does cause harm to the character of the countryside. The harm is exacerbated by the adjoining two gypsy sites. This harm has previously been identified in the aforementioned appeal decisions. However, it is considered that in light of the most recent Inspectors decision on Pear View and Pear Paddock, it would be unreasonable and inconsistent not to allow a temporary personal permission whilst work is completed on the DPD.

## **RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr Cash, 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 of the area and appearance of the countryside contrary to policies ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS7. This identified harm is considered to be outweighed by the personal needs of the applicant with regard to the education of his children and that the lack of alternative sites together with 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 Cash, 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 of protecting the character and appearance of the countryside in accordance with policy ENV28 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 one time;

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

4. 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 amenity, character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS7.

5. Within one month of the date of this decision details of the existing external lighting shall be submitted to the Council for approval of the wattage strength. The approved details shall be carried out as agreed.

Reason: To safeguard amenity, character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and PPS7.

6. Within one month of the date of this decision full details of foul and surface drainage shall be submitted to the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of proper drainage and in accordance with Policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

### **Informatives set out below**

The applicant is advised that, if they have not already done so, it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent being granted. Failure to do could result in action by Council under the Act as caravan sites cannot operate without a licence.

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.