

APPLICATION: MA/10/1542 Date: 19 December 2010 Received: 8 April 2011

APPLICANT: Mr Billy Smith

LOCATION: PLOT 5 LAND AT, LUGHORSE LANE, HUNTON, KENT

PARISH: Hunton

PROPOSAL: Change of Use of land to provide two plots for gypsy travellers, including the stationing of two mobile homes, two touring caravans, a stable building and two utility blocks as shown on drawing nos. MAI/08/SM/03 and 04 received on 3/9/11; and drawing nos. MAI/08/SM/01/A and 02/A received on 20/10/11.

AGENDA DATE: 21st July 2011

CASE OFFICER: Geoff Brown

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

- Hunton Parish Council has requested Planning Committee consideration

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28, ENV34, ENV46
- The South East Plan 2009: CC1, CC6, C4, H4, NRM5
- Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 1/2006

2. HISTORY

MA/02/2134 - An outline application for a 4 bedroom detached dwelling and double garage, with all matters reserved for future consideration – Refused.

MA/97/1125 - Change of use of land to a mixed use for agriculture and the stationing of a residential mobile home; 16 poultry buildings and two sheds – Refused.

There is a current application on land to the south of this site which is, as yet, undetermined:

MA/10/1336 - Variation of enforcement appeal reference ENF/8968 Conditions 1 and 2 to allow the use of the site for the siting of a mobile home and a touring caravan on a permanent basis for an extended gypsy family.

3. CONSULTATIONS

HUNTON PARISH COUNCIL wishes to see the application refused. The development would be detrimental to the landscape.

THE KCC BIODIVERSITY PROJECTS OFFICER agrees with the ecological statement submitted with the application that the development is unlikely to result in adverse ecological impacts. It is recommended that the proposed hedgerows are planted with native species and this could be secured by condition.

THE KCC PUBLIC RIGHTS OF WAY OFFICER objects to the application as there appears to be little consideration as to how the proposed scheme would deal with the public footpath that crosses the site. If permission is to be granted then a 2m path should be secured between paddocks.

4. REPRESENTATIONS

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM PROTECT KENT, RAMBLERS (MAIDSTONE GROUP), A LOCAL ENGINEERING COMPANY AND 17 LOCAL HOUSEHOLDS. The following points are raised:

- a) Applications from travellers should be treated in the same way as applications from the rest of the community. Personal circumstances are not relevant.
- b) Some representations argue that the Council has failed to make adequate provision for travellers, including public site provision. Resources should be expended in providing new sites. On the other hand, some representations argue that adequate provision has been made and there is no need to allow these proposals.
- c) Ineffective measures and bad decision making have resulted in a proliferation of unauthorised sites all over the Borough.
- d) The site is clearly visible and the development would harm the character of the Special Landscape Area. The Council had previously deemed it necessary to issue an Article 4 Direction and issue enforcement notices.
- e) The development would be contrary to policy and guidance. The Government's intention to withdraw Circular 01/2006 should be given due weight.
- f) The proposals would cause harm to the settled community. There would be an undue concentration of such sites in the area.
- g) The applicants live in Dartford and there is no need for them to move here.
- h) There are no proper facilities for the removal of sewage and other basic facilities.
- i) Lughorse Lane is not of adequate standard to satisfactorily deal with the traffic from the development. The area around the access is prone to flooding.

- j) This is not a sustainable location with few basic services and poor access to public transport.
- k) The proposals would lead to the loss of agricultural land.
- l) Inadequate attention has been paid to the existence of the public footpath. Access along the public footpath would be adversely affected.
- m) The ecology of the area would be harmed.
- n) The extent to which the land would be used for business purposes should be investigated.
- o) The value of local properties would fall.

COUNCILLOR COLLINS makes the following points:

“Concerns voiced to me by local residents.

1. Site immediately abuts King George V playing fields, which are very well kept and the parish is very proud of. The mobile home already there on a temporary permission is clearly visible from most parts of the fields even in summer.
2. Site directly adjacent to footpath. It is understood that the foot path will be obstructed by stiles and this could result in several stiles in a short distance as more sites are applied for.
3. This is a Special Landscape Area.
4. There is a blind access onto West Street. An appeal has just upheld a decision on similar case in Sussex.
5. An article 4 removing all development rights was imposed by MBC.
6. There are two springs emerging from the site, need for careful disposal of sewage.
7. Use of conditions Circular 11/95. 4-1141 applies.
8. If not, Gypsy submission of further details should apply. [retrospective planning permission]
9. Nothing should be done to encourage any development on this area of land, and no renewal of temporary permissions.
10. It seems to be widely accepted that the existing mobile home is not used as a permanent dwelling [seems more like a summer retreat].”

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 The application site is located in open countryside off the south side of Lughorse Lane approx. 200m west of the junction with West Street/Hunton Hill. This is flat land within the Greensand Ridge Special Landscape Area (SLA). The application site involves a strip of grassland, currently grazed by horses, measuring approx. 15m wide by 125m long. This strip is in the middle portion of a larger, roughly square-shaped field. The site is approx. 60 to 70m away from Lughorse Lane which has patchy hedging of indigenous species separating the highway from the aforementioned field.
- 5.1.2 The land is served by a rough track down the west side of the field that eventually leads to the traveller site to the south east of the field; and that site is the subject of undetermined application MA/10/1336. Public Footpath KM163 runs from the vicinity of the access gate to Lughorse Lane southwards so that it cuts across the corner of the square-shaped field and therefore across the western extremity of the application site. The site is bounded to the west by low fencing and to the east by a line of intermittent hedging.

5.2 Proposal

- 5.2.1 This application proposes a change of use of agricultural land to the establishment of a caravan site for occupation by two gypsy families. This involves a utility block, a mobile home and a touring caravan for each family arranged on two plots laid out east/west along the strip that forms the application site. These plots would be served by an access track extending eastwards from the existing rough track. At the eastern extremity of the application site would be a small, 'L-shaped' stable block (involving four stable units) of weatherboarding under a tiled roof. The stable block would be approx. 2.4m to eaves and 3.7m to ridge.
- 5.2.2 The heads of the two families are two brothers: Billy and Lenny Smith. Bill has a wife and two young children; Lenny a wife and five young children. The application states that the family has links to the Kent area and have always travelled as their way of life. All of the occupants are related and have been on the road looking for sites for several years, on occasions 'doubling-up' on sites. The application states that the families are homeless with nowhere to live and there is a desire to settle so that health and education services can be accessed, bearing in mind that young children are involved. There is mention of an elderly relative with health problems but this person does not appear to be a prospective occupant, nor are any further details given on that person.

5.3 Principle of Development

5.3.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:

“Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers”

5.3.2 ENV28 then outlines the types of development that can be permitted. This does not include gypsy development: this was previously formally covered under housing policy H36 but this is not a ‘saved’ policy.

5.3.3 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region’s open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.3.4 PPS7: Sustainable Development in Rural Areas outlines at paragraph 15 that:

“Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced.”

5.3.5 PPS4 is also considered relevant, as whilst it relates to economic development, it provides the Government’s most recent stance on the protection of the countryside at Policy EC6 –

“Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.”

5.3.6 Also key in the determination of this appeal is Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites will need to be found in

rural areas. Whilst the Government has indicated that this guidance is to be withdrawn, it remains in place and must be given significant weight.

- 5.3.7 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas. The Core Strategy will set the target pitch figure for the Borough for the period 2006 to 2016. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites.
- 5.3.8 The Local Development Scheme Priority Documents were considered by Cabinet on 8th June. In relation to the Gypsy and Traveller Pitch Allocations DPD, Cabinet agreed to no longer pursue this as a specific DPD but instead to merge it with, and allocate pitches within the overall Land Allocations DPD (under a new title of Development Delivery DPD). (The Land Allocations DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries).
- 5.3.9 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

5.4 Gypsy Status

- 5.4.1 Circular 01/06 defines gypsies and travellers as: "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."
- 5.4.2 I am satisfied that the two Smith families comply with the above definition. The application documentation includes their father's Romany Guild membership card and photographs which clearly indicate a traveller lifestyle. There are also copies of letters from a metal stockholder/fabricator, a fencing company and a resident of New Barn that essentially testify to the gypsy status of the families and provide character references. They would seem to have a nomadic existence in terms of their employment. It should be pointed out that, in seeking permission, there is no need to demonstrate a local connection.

5.5 Need for Gypsy Sites

5.5.1 Clearly there is a requirement for the Council to provide gypsy accommodation and this is set out in Government Guidance in both PPS3 and in Circular 01/2006. 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 for Maidstone over the five year period from April 2006 to April 2011.

5.5.3 However, the pitch requirement revealed in the GTAA assumed that 6 pitches on local authority owned sites across the four authority areas would become available each year through genuine vacancy. For Maidstone Borough, this would assume that 3 pitches/year would become available on the two sites the Council owns totalling 15 pitches over the five years. In fact only 3 genuine vacancies have occurred since April 2006. In the circumstances the overall pitch requirement became 44 pitches for the whole 5 year period.

5.5.4 Since April 2006 the following permissions for pitches have been granted (net):

- 44 Permanent non-personal permissions
- 9 Permanent personal permissions
- 8 Temporary non-personal permissions
- 26 Temporary personal permissions

Therefore a net total of 53 permanent planning permissions have been granted since April 2006.

5.5.5 The Council has agreed its public consultation draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches so there is currently a shortfall of 18 pitches.

5.5.6 In terms of unauthorised pitches, based on the January 2011 count and according to the Council's database at the time of writing this report, there are 86 unauthorised mobile homes and 69 touring caravans. However, 28 of these mobile homes are 'tolerated' at a large site known as Plumtree Bottom in Stockbury. Here 15 sites were served enforcement notices in 1999 which in effect allow a set number of mobile homes on each plot (total of 34). As such, I consider the number of unauthorised mobile homes is 58.

5.5.7 Numerous Inspectors at appeal consider that the level of unauthorised mobiles is an indication of general need; however, I do not consider this to be currently overriding.

5.5.8 It is considered that the Council has met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011.

5.6 Visual Amenity

5.6.1 The application site is located within the Greensand Ridge SLA: an area designated for its landscape value where a key issue is the impact of the development on the character of the landscape. The site occupies a position essentially in the middle of a grassed field. The hedge along the south side of Lughorse Lane is approx. 2 to 2.5m high at its highest and provides some patchy screening from that highway but there are clear medium and short range views into the site from that lane, particularly from the north west and north. Short range views from the east are partially screened by the thin hedging that marks the eastern boundary of the application site and there is significant trees and hedging to the south which blocks most views. Due to intervening hedging and trees, there are no significant long range views into the site.

5.6.2 In my view, the scale of the development proposed and the exposure of the site to medium and short range views is such that the development would cause significant localised harm to the character of the SLA. The harm is somewhat lessened by the fact that the site is not located directly by the roadside but rather set back from Lughorse Lane by approx. 60 to 70m, whilst there is a backdrop of trees in views from Lughorse Lane. As well as views from the lane there would obviously be clear views from the public footpath that crosses the western margins of the site. Proposed new hedging on the northern and southern edges of the site would take a considerable period to mature and become effective.

5.6.3 Whilst the harm to character would be significant, I do not consider there would be a concentration of sites in this locality such as to warrant a refusal of permission on that ground. Whether or not the traveller site to the south is allowed to remain or not (MA/10/1336 refers) I do not consider that a combination would amount to an over-concentration. Two mobile homes are proposed here and I am of the view that the proposed two plots would not dominate the settled community, in terms of visual amenity or any other planning issue, nor would they place undue pressure on the local infrastructure.

5.7 Landscaping

5.7.1 The site is devoid of significant trees and shrubs and so this application raises no significant tree-related issues. As stated above it is proposed to plant new hedging but that would take a considerable period to mature and become effective as a screen to the caravans and new buildings.

5.8 Ecology

5.8.1 An ecological survey has been submitted. The report concludes that the site is of negligible biodiversity value being comprised of grazed improved grassland. The planting of hedgerows of native species would represent a small scale ecological enhancement. The KCC Biodiversity Projects Officer agrees with the content of the ecological statement and therefore there are no reasons to object on ecology grounds.

5.9 Residential Amenity

5.9.1 The site has no near neighbours and has no significant adverse impact on residential amenity. The nearest dwellinghouse is approx. 200m away from the proposed siting of the caravans.

5.10 Highways

5.10.1 I consider the local highway network adequate in terms of accommodating the relatively low level of vehicle movements involved. On the issue of access, the point of access already exists and serves the existing traveller site. The case officer has examined the visibility at the point of access and considers it acceptable to serve the two plots proposed. There is plenty of land shown available for parking. If planning permission is to be granted I recommend an informative reminding the applicants of the need to ensure that vegetation is controlled around the access to Lughorse Lane to maintain exit visibility.

5.10.2 It is inevitable that gypsy traveller sites will be located beyond the bounds of settlements and within the rural area. In my view this site is not so remote from basic services and public transport opportunities in Coxheath and Yalding as to warrant objection on the basis that this is not a sustainable location.

5.11 Equestrian use and Stables

5.11.1 The application proposes the erection of a stable block. It is quite common for gypsies to keep horses and, should permission be granted, I do not consider that such a use would have any significant negative impact on the character, amenity and functioning of the area. The building is small and typical of equestrian structures to be found throughout the countryside, but it would form a part of

the group of caravans and buildings that I have concluded above would have a significant negative impact on the countryside.

5.12 Drainage

5.12.1 Foul drainage is stated as being dealt with by way of a septic tank and surface water drainage via a soakaway. The Environment Agency has no comment other than pointing to the need for an Environmental Permit, or an exemption from permitting. There is no evidence that this form of drainage disposal would not be appropriate here and no grounds to object to this application on drainage grounds.

5.13 The Public Footpath

5.13.1 The presence of the public footpath and the views of the site from it in terms of the impact on the character of the SLA is discussed above. From the comments of The KCC Public Rights of Way Officer access along the footpath could be preserved by the creation of a 2m wide line through the site with the detail of any fencing, gates, etc. being the subject of resolution between the applicants and the KCC officer. I recommend an appropriate condition preventing occupation until that issue is satisfactorily resolved.

5.14 Other matters

5.14.1 This land is not denoted as falling within the best and most versatile agricultural land and there is therefore no reason to object on the loss of such land.

5.15 Temporary Planning Permission

5.15.1 I consider that the development proposed would cause significant localised harm to the countryside but, having come to this conclusion, it is necessary to consider whether temporary planning permission would be appropriate in this case.

5.15.2 I have given consideration to the transitional arrangements as set out in Circular 01/2006. Paragraphs 45 and 46 are particularly relevant in considering planning applications in circumstances where no sites have been provided through the Development Plan process. Inspectors have found that there is a substantial unmet need for sites and there are no alternative suitable sites that are available and affordable. The DPD process will take around three years before sites are identified. In these circumstances, the advice in the Circular is that substantial weight should now be given to the unmet need in considering whether a temporary planning permission is justified.

5.15.3 As discussed above, there would be significant harm caused to the environment from the proposed development but this harm would be lessened if only a temporary permission were to be granted. On the balance of issues I consider that the general need to provide sites outweighs the environmental harm caused by a permission for only a limited period.

5.15.4 No particular personal circumstances have been put forward in this application, other than the need for accommodation and the provision of health and education, given the presence of young children. Whilst I give this some weight, I consider the general need to provide site is of considerably greater importance.

6. CONCLUSION

6.1 This site is poorly screened and I conclude that the development of it to provide plots for two gypsy families would cause significant localised harm to the character of the SLA. However, on balance, I consider that the need to provide sites in advance of the finalisation of work on the Core Strategy and Land Allocations DPD is such that a temporary permission for two years would be the most appropriate recommendation.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be for a limited period of 3 years from the date of this decision. At the end of this period, or when the site ceases to be occupied by gypsies or travellers as defined in paragraph 15 of ODPM Circular 01/2006, whichever shall first occur, the use hereby permitted shall cease and all caravans, hardstandings, structures, materials and equipment brought on to the land in connection with the use, including any wash rooms, waste recycling enclosures and stables, shall be removed in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority:

Reason: The development is considered to cause visual harm to the character of the area. A temporary planning permission has been granted as there is a reasonable expectation that sites will become available through the production of a Land Allocations DPD Document by the end of the period specified. This is in accordance with advice contained within ODPM Circular 01/2006.

2. Before works start on the construction of the utility blocks and stables building, full written details of the proposed external materials to be used in those buildings shall be submitted to and approved by the local planning authority;

Reason: In the interests of visual amenity. This in accordance with Policies ENV28

and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC6 of The South East Plan 2009.

3. No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 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 Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC4 of The South East Plan 2009.

4. This site is not to be used as a caravan site by any persons other than gypsies and travellers, 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. This in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

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

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

6. Before development commences details of any proposed external lighting within the site shall be submitted for approval in writing by the Local Planning Authority. No further external lighting shall be installed at the site beyond that approved under this condition;

Reason: To safeguard the character and appearance of the countryside in accordance with Maidstone Borough-Wide Local Plan 2000 Policies ENV28 and ENV34 and The South East Plan 2009 Policies CC1 and CC6.

7. The stable building and equestrian use of land hereby permitted shall only be used for the private stabling and keeping of horses in the ownership of the occupiers of the lawful residential use of the site hereby permitted and when no longer used for these purposes shall, together with any other related development, be demolished and the resulting material removed from the land to the satisfaction of the Local Planning Authority;

Reason: To ensure that adequate security and supervision is provided for the animals kept on the land in accordance with Policy ENV46 of the Maidstone Borough-Wide Local Plan 2000.

8. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing nos. MAI/08/SM/03 and 04 received on 3/9/11; and drawing nos. MAI/08/SM/01/A and 02/A received on 20/10/11;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and Policies CC1 and CC6 of The South East Plan 2009.

9. The development shall not commence until full details of the means by which public access would be maintained on Public Footpath KM163 have been submitted to and approved by the Local Planning Authority in consultation with the Kent County Council Public Rights of Way Officer. The submitted scheme shall include details of any associated fencing, gates, etc. and the approved access arrangements shall be fully implemented before the use hereby permitted commences and maintained thereafter:

Reason: In order to ensure that the public footpath continues to provide adequate public access in the interests of rural amenity. This in accordance with Policy ENV26 of The Maidstone Borough-Wide Local Plan 2000.

Informatives set out below

The ground level vegetation on either side of the point of access to Lughorse Lane shall be maintained so that adequate exit visibility is always available.

The applicants are advised to seek the advice of The Kent County Council Public Rights of Way Officer in drawing up the details re: the safeguarding of the public footpath.

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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.