

APPLICATION: MA/11/0055 Date: 15 January 2011 Received: 12 May 2011

APPLICANT: Ms C. Powell

LOCATION: STILEBRIDGE STABLEYARD, STILEBRIDGE LANE, LINTON, KENT

PARISH: Boughton Monchelsea, Linton

PROPOSAL: Change of use of land for the stationing of 3 caravans for residential use of which at least two will be touring caravans, erection of a utility block, hardstanding, fencing, installation of septic tank and keeping of horses as shown on drawing numbers 1135/10/1, 1135/10/2 and 1 unnumbered drawing received on 17/1/11 and 18/1/11 as amended by additional supporting information received on 12/5/11.

AGENDA DATE: 22nd September 2011

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Linton and Boughton Monchelsea Parish Councils

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- South East Plan 2009: CC1, CC6, C4, H4, NRM5
- Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006

2. HISTORY

None directly relevant to this application. There is a substantial planning history but that involves a series of applications for agricultural/equestrian usage by a previous owner, where the applicant Mr Wilson owned a much larger area of land than the current application site.

A site approximately 40m further north along Stilebridge Lane was recently granted permanent consent for 2 mobile homes and 2 touring caravans for residential occupation by gypsies under reference MA/10/1555 known as Stilebridge Paddock.

3. CONSULTATIONS

Linton Parish Council wishes to see the application REFUSED and request that the application be reported to Planning Committee for the following reasons:-

- The development is contrary to Policy ENV28 and 'flies in the face of' Policies CC1, CC6 and C4 of the SE Regional Plan 2009. If granted this development will have an adverse effect on the countryside and the local community.
- Concern that the development is retrospective and the site is now established.

Boughton Monchelsea Parish Council wishes to see the application REFUSED and request that the application be reported to Planning Committee for the following reasons:-

- There would be significant and irreversible visual harm to the character and appearance of the area and contrary to ENV28.
- The development is a departure from the Development Plan and gypsy sites on countryside land are not appropriate.
- Circular 01/2006 should be given limited weight as it is non-statutory and is to be revoked.
- The applicant moved on without communicating with the Council or local community.
- There would be unjustified additional traffic onto a rural lane.
- A negative impact on ecology.
- Concern that the applicant may not be a gypsy.
- No decision should be made until planned provision of gypsy sites has been provided.
- Flood risk for the site.

MBC Environmental Health Manager raises no objections to the application subject to a caravan site being granted and the conditions being complied with.

KCC Ecology have considered the application and raise no objections stating that there is "minimal potential for the site to be suitable for protected species.

We require no further information to be submitted.

The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it. The site is proposing to include native planting on the new hedgerows – while this is welcomed further consideration should be to enhancing the site for biodiversity, suggestions include the creation of an area of rough grassland along the edge of the hedge."

4. REPRESENTATIONS

5 Letters of objection have been received on the following grounds:-

- Loss of a view of the countryside.
- Increased disturbance from noise from generators and lights.
- Increased number of sites.
- Concern about a business use from the site.
- Visual impact on the character and appearance of the countryside.

CPRE Maidstone raise objections to the application on the following grounds:-

- The development is new residential units in the countryside.
- The necessary gypsy status may not be complied with.
- Harm to the character and appearance of the countryside.
- An adverse impact on community harmony.
- Disagrees with the applicant's submission that the Government's intention to abolish the regional strategies is not a material consideration.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located in open countryside (wholly within Linton Parish) off the east side of Stilebridge Lane approximately 475m east of the junction with the A229. The land here is not the subject of any particular landscape designation. The site is roughly triangular in shape and, before development commenced, involved simply a vehicular access at the southern end onto a shared bell mouth with other plots that have been split and are in different ownerships. The application site is separated from the carriageway of Stilebridge Lane by a highway verge that includes an existing wedge of Blackthorn hedgerow that varies between 2 and 4 metres in width that runs for approximately three quarters of the site frontage. There is no pavement or footpath between the site and the carriageway. The site was a grassed paddock. Land hereabouts is gently undulating farmland.

5.1.2 The application site is approximately 0.17 hectares in area. The development has already commenced with caravans on site at present on a hardstanding of roadstone at the northern end of the site in a restricted area with grassed amenity area for the remainder of the site. There are well-established hedgerows to the road frontage of the application site. Open agricultural land lies to the east, with paddocks to the south and the lane to the west. A site approximately 40m further north along Stilebridge Lane was recently granted permanent consent for 2 mobile homes and 2 touring caravans for residential occupation by gypsies under reference MA/10/1555, known as Stilebridge Paddock.

5.2 Proposal

- 5.2.1 The application proposes a change of use of agricultural land to the establishment of a caravan site for occupation by a gypsy family. This involves a 5m by 4m utility block, a mobile home and two touring caravans within an area of hardstanding.
- 5.2.2 The site would be occupied by Mr Thomas Dunn and his partner Charlene Powell and their five children. Mr Dunn is a horse dealer who travels to the main horse fairs, including Stow, Appleby, Barnet, Reading, Ballinasloe (Ireland) and Horsemonden in addition he carries out general garden work with other members of his family all over Kent and Essex, Ipswich and to Southport. Ms Powell does not work and looks after the couple's five children. Mr Dunn's mother lives at Bramblewood Stables in Pitt Road and Ms Powell's parents live on a site in Lenham Heath.

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 was not 'saved'.
- 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. The initial Core Strategy public consultation has just begun, which includes the agreed Cabinet target of 71 pitches for the period 2006 to 2016.

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). A revised Local Development Scheme is being reported to the Task and Finish Panel on the 20 September 2011 with a revised timescale for the adoption of documents. This indicates that the Development Delivery DPD is scheduled for adoption in March 2015.

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 family complies with the above definition. The application documentation includes details of Mr Dunn’s horse dealing and gardening work (outlined earlier in para 5.2.2). They would seem to have a nomadic existence in terms of their employment. Both Mr Dunn and Ms Powell have family connections on gypsy sites within the Borough.

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 on 52 sites (including this site). 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 Impact

- 5.6.1 The application is a relatively small plot with a comparatively large frontage of approximately 45m onto Stilebridge Lane. There would be views of the site from Stilebridge Lane and this would cause an element of visual harm.
- 5.6.2 Due to the lack of significant depth to the site the development of the utility block and the area of hardstanding and location of the caravans would be in close proximity to Stilebridge Lane. There is a proposal for landscaping including a row of poplar trees along the Stilebridge Lane frontage in addition to the existing Blackthorn hedgerow with a depth of between 2 and 4 metres and a double staggered hedgerow along the northern boundary of the site. Although this landscaping scheme would help to screen the development, it would in itself appear out of place by creating a small plot in an area characterised by large open paddocks and agricultural fields. The boundary treatments would be a 1.8m close boarded fence to the front of the site set behind the row of Poplar trees with all other boundaries delineated by post and rail fences. The vehicular access to the site exists and is lawful and there are no proposals to either widen it or create a new access. Therefore the integrity of the frontage planting would remain undamaged.

- 5.6.3 It is my view that the proposal would result in significant visual harm on the character and appearance of the countryside in particular from short to medium views along Stilebridge Lane. The development is a change of use of land with minimal operational development in the laying of hardstanding and the erection of a utility block. This development is clearly reversible and could be removed at a future date.
- 5.6.4 There would be no significant views of the site from a public footpath, the nearest one being KM129 approximately 270m to the south of the application site.
- 5.6.5 Although there are other gypsy sites in the vicinity, they are sufficiently separated or well screened so that an over concentration in visual terms would not apply.
- 5.6.6 I consider that the development would cause visual harm from short to medium views and with the current policy position, the lack of alternative sites for the occupiers of this site and the future emergence of allocated sites it is appropriate that this site be granted a temporary planning position for 4 years to enable the site allocation process to occur and the adoption of the Development Delivery DPD, which is anticipated in March 2015.

5.7 Ecology and Landscaping

- 5.7.1 The site is a relatively small parcel of land and the proposal involves a significant level of new landscaping including a mixed double staggered hedgerow incorporating hawthorn (50%), hazel (30%) holly (10%) and arrow wood (10%). There would be five new field maple trees planted in the north west corner of the site.
- 5.7.2 This additional landscaping would provide additional habitat for wildlife as well as assisting in screening the development.
- 5.7.3 The site is within 500m of the River Beult SSSI to the south. The views of the KCC Ecologist have been sought and she is happy that no ecological survey is required for the site based on the minimal potential for the site to be suitable for protected species.

5.8 Residential Amenity

- 5.8.1 The site has no near neighbours and has no significant adverse impact on residential amenity. The nearest dwelling is approximately 250m away from the proposed siting of the caravans. Given the relative isolation of the site I am not

convinced that noise and disturbance from generators and children is so great as to warrant a refusal of this application.

5.9 Highway Safety and Sustainability

- 5.9.1 The local highway network is considered acceptable in terms of accommodating the relatively low level of vehicle movements involved. On the issue of access, the point of access to Stilebridge Lane already existed prior to this development commencing and served the agricultural building. The case officer has examined the visibility at the point of access and considers it acceptable to serve the site. There is plenty of land available for parking and turning and such areas are properly surfaced in roadstone. The access gates are set back from the edge of the carriageway.
- 5.9.2 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 as to warrant objection on the basis that this is not a sustainable location. The A229/Stilebridge Lane junction is only around 600m away to the south west of the site. The benefits of the settled location of the occupants and therefore access to health facilities and education opportunities for the children on the site, in this case, outweigh the countryside location of the site.

5.10 Other Matters

- 5.10.1 There is no business use proposed on the site as part of the application and I recommend a condition be imposed to this effect.

6. CONCLUSION

- 6.1 I consider that the development would cause visual harm from short to medium views and with the current policy position, the lack of alternative sites and the future emergence of allocated sites it is appropriate that this site be granted a temporary planning position for 3 years to enable the site allocation process to occur.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mr Dunn and Ms Powell and children and shall be for a limited period being the period of three years from the date of this decision, or the period during which the premises are occupied by them, whichever is shorter.

Reason: The development would cause visual harm to the character and appearance of the countryside. However, due to the current status of the Council's Development Plan and the lack of alternative options for the applicant at this time, an exception has been made to provide accommodation solely for gypsies pursuant to Policy H4 of the South East Plan and in light of the circumstances of the applicant and family.

2. When the premises cease to be occupied by Mr Dunn and Ms Powell and children or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the premises in connection with the use shall be removed, including the stable blocks, and the land restored to its former condition.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

3. This permission does not authorise the use of the land as a caravan site by any other 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.

4. No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and two touring caravans.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan 2009.

5. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan 2009.

6. All planting, seeding or turfing comprised in the approved details of landscaping shown on drawing number 1135/10/2 shall be carried out in the first planting and seeding seasons following the date of this permission 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 and ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in PPS9.

7. Within 2 months of the date of this permission 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).

8. 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).

9. No commercial activities shall take place on the land, including the storage of materials;

Reason: To ensure a satisfactory appearance to the development and prevent an inappropriate use in the countryside in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000).

10. The development hereby permitted shall be carried out in accordance with the following approved plans:
1135/10/1, 1135/10/2 and 1 unnumbered drawing received on 17/1/11 and 18/1/11;

Reason: To ensure the quality of the environment is maintained in accordance with ENV6 and ENV28.

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 so could result in action by council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Project Manager on 01622 602145 in respect of 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 the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.