



Planning Appeal Decision

Inquiry held on 23 & 24 May 2006

Site Visit held on 23 May 2006

by **Lucy Drake** BSc MSc MRTPI

an Inspector appointed by the First Secretary of State

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Date

03 JUL 2006

Appeal Ref: APP/U2235/A/05/1193932

The Caravan, Detling Lime Works, Hermitage Lane, Detling, Maidstone, ME14 3HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is made by Mr Ken Harper against the decision of Maidstone Borough Council
- The application, No MA/05/1462 dated 27 April 2005, was refused by notice dated 27 October 2005
- The development proposed is the siting of one caravan for residential use and the erection of 3 outbuildings (2 conjoined) for ancillary residential use

Summary of Decision: The appeal is allowed and planning permission granted subject to the conditions set out in the Formal Decision below.

Procedural matters

- 1 The description of the development given above was agreed at the inquiry. The application seeks a personal planning permission for Mr Harper and this was the basis on which the inquiry proceeded

The main issues

- 2 The main issues in this case are
 - (a) Whether Mr Harper is a gypsy for the purposes of planning policy
 - (b) If so, whether the development complies with relevant gypsy site policies
 - (c) The effect of the development upon the character and appearance of this part of Detling
 - (d) The effect of the development upon the operation of and restoration works to the quarry
 - (e) The provision of and need for additional gypsy sites within the Borough
 - (f) Mr Harper's personal circumstances, his need for a site and alternative accommodation options

Planning policy

- 3 The development plan for the area includes the Kent Structure Plan 1996 and the Maidstone Borough-Wide Local Plan 2000. In justifying their decision to refuse the application the Council also referred to the Kent & Medway Structure Plan Deposit Draft of September 2003. Proposed Modifications to this plan were published in September 2005 with a view to adoption in 2006. In the main, the proposed Structure Plan Policies relevant to this appeal are not so materially different from the adopted ones as to merit separate consideration. I therefore intend to concentrate on the adopted policies, while noting their rolling-forward by the emerging Plan.
- 4 The appeal site is within the open countryside outside any defined settlement. It also lies within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the North Downs Special Landscape Area (SLA) as well as within the Maidstone/Medway Strategic Gap. The overall aim of development plan policy in these areas is to strictly control unnecessary development.
- 5 With regard to development in the countryside generally, Structure Plan Policy ENV1 says that the countryside will be protected for its own sake. Development which will adversely affect it will not be permitted unless there is an overriding need for it which outweighs the requirements to protect the countryside. Policy RS1 requires all development in the countryside to be well designed, appropriate to its location, acceptable in highway terms and preserve and, as far as possible, enhance the character, amenity and functioning of the countryside. Local Plan Policy ENV28 seeks to protect the character and appearance of the countryside and says that planning permission will not be given for development which harms the character and appearance of the area or the amenities of the surrounding occupiers. Development will be confined to the listed categories, which includes exceptions indicated by policies elsewhere in the plan.
- 6 With regard to AONBs, Structure Plan Policy ENV3 says that LPAs will provide long-term protection for these areas, giving priority to the conservation and enhancement of their natural beauty. Proposals for development which would be inconsistent with this priority will be weighed in the light of their importance in securing the economic and social well-being of the area. Local Plan Policy ENV33 is similar in intent but provides that small scale development to meet the social and economic needs of rural communities will be permitted provided that such development is consistent with the protection of the natural beauty of the landscape.
- 7 The policies relating to SLAs are broadly similar to those for AONBs. Structure Plan Policy ENV4 says that the local planning authorities will provide long-term protection for SLAs and will give priority to the conservation and enhancement of the natural beauty of the landscape over other planning considerations, whilst having due regard to the economic and social well-being of the area. In the Local Plan, Policy ENV34 provides that particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations.
- 8 Structure Plan policy MK5 provides that within the Maidstone-Medway Strategic Gap, as defined in Local Plans, development proposals which would significantly extend the built confines of existing settlements or the areas currently identified for development will not be permitted. Local Plan Policy ENV31 is very similar in wording.

- 9 The appeal site also lies between two parts of a designated SSSI but the Council put forward no evidence to indicate any harm to this land and I see no need to assess the development in relation to development plan policies or statutory requirements relating to these
- 10 National policy for gypsy site provision is now provided in Circular 01/06 Planning for Gypsy and Traveller Caravan Sites which was issued in February 2006, after the lodging of the appeal Development plan policies for gypsy sites are dealt with in section (b) below

Background

- 11 The appeal site is an area of land, about 80m by 30m on the southern edge, and within the ownership, of Detling Lime Quarry The entrance to the quarry is about 150m north of the junction of Pilgrims Way and about 500m north west of the village of Detling Chalk extraction for agricultural purposes has taken place at the quarry since before the Second World War and, since 1953, under the terms of a series of planning permissions which, in latter years included restoration and landscaping conditions The most recent of these was granted in 2005 which permits extraction to continue until 2016
- 12 In September 1983 the County Council granted planning permission for the stationing of a residential mobile caravan on the appeal site which was sought to enable residential occupation by a night watchman Mr Harper had moved to the site in about 1980, at the invitation of Mr Sandford the site owner, to perform such duties Initially his caravan was sited on the quarry floor next to the operational buildings, but by virtue of this planning permission it was resited on adjacent higher ground close to the southern boundary The planning permission was subject to conditions which amongst other things (i) required its removal by 1 September 2003, and (ii) restricted its occupation solely to a person employed for security duties in connection with quarrying on the site The permission expired in September 2003 and was not renewed, although Mr Harper has continued to occupy a caravan on the land and act as an informal night warden and deterrent to unauthorised visitors The appeal seeks a permanent permission for his continued occupation, unrelated to any continuing security role he may or may not have at the quarry
- 13 At some time since the mid-1980s, though it is unclear exactly when and may not have been until the late 1990s or even the early years of the 21st century, Mr Harper erected three single storey buildings on the appeal site without planning permission Authorisation for their retention for ancillary residential use forms part of the appeal They comprise a kitchen/dayroom, about 3m by 5m in area at the western end of the site close to the embankment with Hermitage Lane, and two linked buildings a workshop about 2.5m by 5m and a garage, about 4m by 7m, within the central part of the site, both of which are mainly used for storage
- 14 Over the years Mr Harper was said to have brought a large number and variety of objects and vehicles on the site which he repaired and sold on In November 2003 the County Council served an enforcement notice alleging a material change of use from quarry to non-quarry related purposes, the erection of buildings and structures and the storage for onward sale, selective retention and transfer of non quarry-related materials, articles and the stationing of vehicles on the site An appeal against this notice was submitted, but withdrawn prior to determination and thus the notice took effect and remains in force Although there has been some tidying up of the site since, and the enforcement notice did not seek to prevent the continued stationing of the caravan and residential use of the site, the three buildings and two vehicles (a large passenger coach and a Mercedes van which Mr Harper is seeking to convert to a motor home) remained on site at the date of the inquiry

- 15 A fire which occurred at the site in August 2004 destroyed the caravan and some of the buildings on site at the time, but these were said to have been replaced in a similar form in approximately the same position. The fire also destroyed some of the trees and shrubs on the embankment leading up from Hermitage Lane which assisted in screening the caravan and kitchen from public view.
- 16 The Borough Council has no objections to the continued justified presence of a night watchman's caravan on the site, but objects to an independent residential and business use in an area of high restraint against inappropriate development. It was agreed at the start of the inquiry that planning permission was no longer being sought for business use but that the appellants wished to keep all of the buildings for ancillary residential purposes.

Reasons for the decision

(a) *Whether Mr Harper is a gypsy for the purposes of planning policy.*

- 17 The definition of 'gypsies and travellers' for planning policy purposes is contained in paragraph 15 of Circular 01/06 'Persons of nomadic habit of life whatever their race or origin, *including such persons who on grounds only of their own health needs or old age have ceased to travel temporarily or permanently*'. The italicised section being the principal amendment to the earlier definition.
- 18 At the inquiry the Council's planning witness accepted that Mr Harper met the above definition. His father came from a gypsy family, although did not travel for an economic purpose. After he left the Army, in 1966, Mr Harper extensively travelled in a caravan for work purposes with no fixed abode. In the mid 1970s he settled on a former highways works depot at Coldharbour, West Malling which later became an unofficial gypsy site. With the agreement of that Council he acted as an unpaid warden/security presence for about 5 years, continuing to travel in a van while leaving his trailer on site.
- 19 In 1980 he was approached by Mr Sandford, the owner of Detling Quarry, to move onto the Quarry to act as a night watchman in return for free rent, rates, water and electricity. He had no contract of employment, was paid no wages and had to provide his own caravan, but no explicit restrictions were placed on his day-time activities and there does not appear to have been any formal requirement for him to spend every night at the quarry. Initially the caravan was sited close to the operational buildings on the quarry floor, but following the planning permission granted in 1983 it was moved to the higher ground just to the south. Mr Harper was permitted by Mr Sandford to have only one caravan and to park a single vehicle close to the site entrance.
- 20 From about 1986 Mr Harper began travelling regularly again, typically staying away between 1 and 4 nights, with an average of about 7 nights in each month. He went to fairs, car boot sales, markets and anywhere he could buy and sell items with a view to profit. He initially kept a touring caravan at the site but because of Mr Sandford's complaints later kept it at a friend's when not in use. He stored the goods he bought, which ranged in size from a 32-seater coach to household objects, at the site. Initially in the open and later in the two sheds he constructed, without planning permission, in the central area. This unauthorised storage led to a deterioration in the relationship between Mr Harper and Mr Sandford, who regularly removed items and sought to clear up the site.
- 21 Although Mr Sandford said he was unaware of Mr Harper's travelling during the period 1986-1999, he agreed that it was not uncommon for Mr Harper to be away from the site.

during the daytime (indeed this provided him the opportunity to clear up the site) Furthermore although Mr Sanford was often at the quarry until 7pm he did not stay overnight and did not go into Mr Harper's part of the site on a daily basis The pattern of travelling described by Mr Harper is compatible with the observations of Mr Sandford and I find no reason to doubt Mr Harper's claims that he travelled regularly for an economic purpose during the period 1986-1988/9 Around this date his health deteriorated and he gave away his touring caravan The fact that he received no monetary wage for his night watchman duties would have necessitated some other form of economic activity The goods brought onto the site and the confirmation by Mr Sandford's son-in-law that Mr Harper was a regular presence at Maidstone Market, buying and selling goods, all support the claim that Mr Harper made a living in this way The travelling may have only have accounted for some of the activity but it appears to have been done on a regular basis and for an economic purpose and is consistent with both the former and current definitions of gypsies and travellers

- 22 The serious medical problems which have beset Mr Harper since the late 1990s are described in detail by his GP in letters written in Sep 2004 and May 2006 and, with his age, provide a sound justification as to why he ceased travelling from about 1998 From the evidence submitted I consider that Mr Harper meets the definition set out in paragraph 15 of Circular 01/06 and is a gypsy for the purposes of planning policy

(b) Whether the development complies with relevant gypsy site policies.

- 23 Structure Plan Policy H8, Gypsy site provision, provides that where there is an identified need, local planning authorities will make provision for gypsies in local plans and through development control Provision should be consistent with the Plan's other policies and will not normally be permitted in areas protected under Policies ENV3-6 This Policy has to be read in the context of paragraph 52 of Circular 01/06, which says that in areas with nationally recognised designations, such as AONBs, as with any other form of development, planning permission for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development Paragraph 53 provides that local landscape designations (*which include SLAs*) should not be used in themselves to refuse planning permission for gypsy and traveller sites This overrides the presumption against such development in these designated areas by Structure Plan Policy H8 and while mindful of the multi-layered status and character of the area it is necessary to consider the nature and degree of harm to the designated areas arising from the development
- 24 Emerging Structure Plan Policy HP10 says that where a need for permanent or transit gypsy accommodation is established, provision should be in accordance with the Structure Plan's policies for protection of the environment, countryside and the Green Belt Sites should be provided within the major/principal urban areas or rural settlements In the absence of such sites, locations with good accessibility to the major/principal urban areas or rural service centres and with easy and safe access to primary and other main roads will be preferred Proposals should be located to avoid adverse impact on residential amenity, highway capacity and highway safety
- 25 Notwithstanding the requirements of former Circular 1/94, PPG3 and Structure Plan Policy H8 it is not until very recently that Maidstone Borough has commenced a quantitative assessment of need for additional gypsy sites on which to base their Local Plan or

forthcoming DPDs. The great majority of existing sites in the Borough are within the countryside and while future site provision may be concentrated in urban areas, the emerging Structure Plan Policy recognises that this may not always be possible. The appeal site has very good access to Maidstone and the primary road system and no party has claimed the development causes any harm to residential amenity or highway capacity/safety.

- 26 The gypsy sites policy in the Local Plan, H36 does not exclude such development from any part of the Borough and to that extent can be regarded as one of the exception categories for development in the countryside referred to by Local Plan Policy ENV28. It says that that planning permission will not be given for gypsy sites unless 3 criteria are met. These are (1) that the resident has a nomadic way of life and travels for the purpose of making a livelihood (2) that the site should be satisfactorily screened by natural features and (3) that the development will not lead to an undue concentration of such developments which would adversely affect the character or amenity of the countryside or area. The Council's planning witness accepted that the first criterion essentially requires a proof of gypsy status, and that Mr Harper meets the definition contained in paragraph 15 of 01/06 and therefore complies with it. He also accepted the development met the requirements of criterion (2) in that it was capable of being satisfactorily screened, subject to additional planting on the bank adjoining Hermitage Lane and that there was no conflict with criterion (3).
- 27 The effect of the development upon the character and appearance of the area, including the AONB, SLA and Strategic Gap is dealt with below, but in all other respects, and particularly that of Local Plan Policy H36, the development complies with relevant gypsy site policies.

(c) The effect of the development upon the character and appearance of this part of Detling.

- 28 The lime quarry, with its exposed chalk faces, industrial-type buildings, heavy lorries and occasional noise, while harmful to the character and appearance of the area has been in existence for over 50 years and is likely to continue to be operational for at least another 10. The higher parts of it were said to be visible from the M20 to the south west, but at a local level it is well concealed by surrounding woodland and the high-banked lane such that its presence only becomes apparent when close to the entrance, from where the closed metal gates prevent views into the site. When they are open large extent of the quarry, the chalk store shed and two buildings used as an office/workshop and tractor shed, as well as some abandoned heavy vehicles, are visible. When the gates are closed, only the upper parts of the buildings and the quarry walls are visible although the 'gap' in the woodland and the chalk faces clearly indicate the nature of the use. The hard-surfaced part of Hermitage Lane ends at the quarry entrance but the lane continues north eastwards as an unsurfaced track along the edge of the quarry.
- 29 The quarry lies within an extremely attractive wooded landscape on the south-facing escarpment of the North Downs. The Pilgrims Way follows the road along the base of the escarpment providing extensive views across the Medway Valley, and The North Downs Way follows the top of the escarpment. About 200m to the south of the appeal site are the outlying houses of Detling Village and just beyond is the A249 dual carriageway. However the slope of the land and the surrounding woodland mean that the harm to the landscape caused by the quarry and its associated buildings is very localised and, in my view, surprisingly small.
- 30 Part of Mr Harper's caravan and kitchen/dayroom can only be seen from a 20-odd metre stretch of Hermitage Lane at the top of a 3-4m embankment which, until a fire which occurred in 2004, was said to be very well wooded. But even with the loss of some of the

trees the small scale of the structures, their partial screening and the fact that they are well above eye level is likely to mean that many people would pass by unaware of their presence. Were they to be noticed at all, in my view they are likely to be regarded as connected in some way to the adjacent, larger, quarry buildings and workings.

- 31 Replacement planting on the embankment would further reduce the visual impact of the caravan and kitchen, but even before this matures, the effect of the development upon the character and appearance of the area is minimal. It certainly does not have any material harm upon the natural beauty, landscape character or function of the AONB or SLA or the Strategic Gap, such as to compromise the objectives of their designation or any development plan policy seeking to protect these areas. While it could not be said to enhance the area, this is not a requirement of any development plan policy for gypsy sites.
- 32 The caravan has been on the appeal site for 23 years, 20 of them authorised. The buildings erected by Mr Harper may not have had planning permission, but in the case of the kitchen/dayroom is reasonably necessary for his residential occupation and small in scale. The other buildings to the rear are not visible from any public place and are barely visible even from within the quarry itself. Mr Harper is in poor health and is now 61 years of age. His continued occupation of the site would cause no additional harm to the character and appearance of the area beyond that which has already occurred. While accepting that Structure Plan Policies provide that gypsy sites should not normally be within protected areas I find no material harm to the objectives of the designations as a result of the development and thus no conflict with the relevant planning policies.

(d) The effect of the development upon the operation of and restoration works to the quarry.

- 33 By virtue of a planning permission granted by the County Council in 2005(MA/04/335/MR42), chalk extraction from Detling Quarry can continue until 31 December 2016. An approved programme of remedial works, removal of buildings, landscaping and site restoration must be completed by December 2017. The appeal site lies within an area shown as intended for 'final tree planting' comprising a mix of native tree and shrub species to be planted in double staggered rows at 1m spacings.
- 34 The area of permitted chalk extraction is at the north eastern end of the quarry, between about 100 and 200m from the appeal site. Mr Harper has been permitted to use the main (and only) site entrance at all times and there is no evidence to suggest that his past or future residential occupation of the appeal site has had or would have any effect upon the operation of the quarry. The chalk face is now much further away from Mr Harper's caravan than when he first occupied the site and he reported a '1,000% improvement' in terms of dust, noise and general disturbance since then. While the appeal site could not be described as a good residential environment, active working only takes place for a part of the year, its impact upon Mr Harper is slight and he has become accustomed to it.
- 35 If Mr Harper were to still be living on the appeal site in 2017 the final tree planting, as on the approved plans, could not take place in its entirety, but that would not prevent restoration being completed to all other parts of the quarry. His subsequent death or departure from the site would enable this relatively small part of the overall scheme to be completed in due course, albeit with an amendment to the conditions in terms of timing. His earlier death or departure would mean that the full restoration works could be completed in accordance with

the approved scheme The County Council could not rule out the possibility that an extension of the working period may be allowed as the rate of extraction in recent years had been less than expected, with a possible resultant extension of the restoration timetable

- 36 Even the 'worst case' scenario of quarry ceasing in 2016 and Mr Harper continuing to occupy the site would, at most, result in a temporary delay to a small part of the final site restoration and landscaping to an area that is already well screened from surrounding land The development the subject of this appeal would have no material effect upon the operation of the quarry and, at worst, only a delaying effect upon subsequent restoration works

(e) The provision of and need for additional gypsy sites within the Borough.

- 37 The Council accepts that there is a demand for additional gypsy accommodation within the Borough as demonstrated by the numbers of planning applications received (over 40 in the last 5 years) and by the fairly consistent level of unauthorised caravans It also accepts that there are no vacancies on any Council-owned or operated gypsy site in the Borough and that there is a need to provide additional gypsy sites A needs assessment is underway but is not expected to be completed until later this year The results are to be fed into the Housing DPD, for which the Core Options Consultation Document is due to be published at the end of 2006 The identification of suitable sites had not yet commenced and the Council's planning officer was unable to give a date as to when sites would begin to become available From this it has to be assumed it will be several years hence, even if the process is not delayed to allow for need to be considered at a Regional level and pitch allocations determined through the RSS
- 38 The Council could identify no alternative gypsy site to which Mr Harper could move to were he required to leave the appeal site

(f) Mr Harper's personal circumstances, his need for a site and alternative accommodation options.

- 39 Mr Harper is an elderly gentleman with significant health problems affecting his legs, kidneys, urinary system, heart and bones He is on regular medication, has had several in-patient hospital stays, has a prospect of heart surgery in the near future and is currently being monitored in three separate hospital speciality departments for (according to his GP) 'quite major medical problems' He is unable to earn a living and is dependant upon state benefits
- 40 He has not lived in a house since he was 16, or in bricks and mortar since his Army days in his early 20s Although his GP considers his health would be greatly benefited by resettlement in modern housing, Mr Harper said that he would find this type of accommodation alien to him after so many years and fears that a move to bricks and mortar would be harmful to his mental well-being (as it was for his grandfather) and significantly shorten his life expectancy He confirmed at the inquiry that there were no circumstances under which he would live in a house A genuine aversion to bricks and mortar is not uncommon amongst gypsies and has to be respected, especially after so many years of living in a caravan Mr Harper has a clear need for a site on which to station his caravan, which has to be seen both as part of the general need for gypsy sites in the area and as a particular need specific to himself
- 41 When he became aware that the planning permission had expired in 2003 he made enquiries with friends and other travellers who had small private sites However, they all informed

him that he could not live on their land for planning and other reasons. He visited a number of Council-owned and other sites within Maidstone District and further afield, including Croydon and Gravesend but all were full, with waiting lists, and priority likely to be given to relatives of existing site occupants. He has no such family connections with any of them, but in the unlikely event of him securing a pitch he felt he would have difficulty in settling onto any of these sites, having lived alone for some 25 years in considerable privacy. He also feels that he would be unwelcome on such sites as he would be seen to be taking up a plot which other residents believed should have been offered to one of their own family.

- 42 He could not afford to buy a plot of land for himself. He has no financial assets apart from his caravan, which he had to replace from his own resources following the fire of 2004 that destroyed the previous one and all of his other items of any significant value. He occasionally does repair jobs on household items for friends and acquaintances but only charges expenses and relies entirely on state benefits.
- 43 Given all these factors, and the lengthy period of time before which additional sites may begin to emerge through the DPD process, Mr Harper's only realistic alternative accommodation to remaining on the site would be to return to an itinerant roadside existence in a Mercedes van he is currently converting to a motor home. The shortage of authorised transit sites would make this way of life very difficult. The lack of heating, running water and sanitary conditions would, according to his GP, certainly cause his general health to deteriorate and jeopardise his renal function. The absence of a fixed address would also make it far more difficult to be contacted by the medical services and threaten the continuity of his medical care.
- 44 Mr Harper's need for a site on which to live in his caravan, the lack of any suitable alternative site and his age and medical conditions are all factors which must be given significant weight in favour of allowing the development.

Other matters

- 45 Mr Harper's continued occupation of the site while no longer formally employed by the freehold or leasehold owners of the quarry may well place him in breach of private or other contracts which operate independently of planning control. However, these are matters to which I can give little weight and I have considered the appeal on the basis of planning, and all other material considerations only.

Conclusions

- 46 Mr Harper has lived on the appeal site for over 25 years (for all but the last 3 of them on an authorised basis) without causing any apparent harm to any interest of acknowledged public importance. The scale of the development he is responsible for is very minor and barely visible from outside the appeal site. The very slight harm caused to the character and appearance of the area by the partial visibility of his caravan and kitchen from a short stretch of Hermitage Lane is not such as to materially harm the character and appearance of the area or compromise the objectives of the AONB, SLA or Strategic Gap. To all intents and purposes the development complies with relevant planning policies for gypsy sites. Built development and mining activity is expected to continue within the adjoining parts of the quarry for another 10 years at least. Mr Harper's continued occupation will neither prejudice the continued working of the quarry nor significantly prejudice or delay the final restoration requirements. Mr Harper has a need for a site on which to live in his caravan, there are no alternative sites likely to be available to him in the short to medium term, at the very least. A

forced return to a nomadic lifestyle on unauthorised sites would seriously worsen his health and life expectancy

- 47 Although Mr Harper has no legal interest in the land he occupies, his lengthy period of occupation means that it has to be regarded as his home for the purposes of Article 8 of the European Convention on Human Rights. Dismissal of the appeal would be likely to lead to his enforced departure from the site and a return to an itinerant, roadside existence, which would be both highly unsatisfactory for him, as well as the owners of the land he stopped on, and contrary to national policy objectives aimed at meeting the needs of gypsies and travellers. It would represent a significant interference with his home and family life which in my view outweighs the very limited harm which is caused by the development, in terms of its effect upon the public interest and the rights and freedoms of others. The dismissal of the appeal would have a disproportionate effect upon the rights of Mr Harper under Article 8 of the European Convention on Human Rights.
- 48 The personal basis on which planning permission is sought will mean that the need for the development will cease upon either his death or earlier departure and thus the very minimal visual harm caused will be for a limited period only. But in any case, this slight harm is heavily outweighed by Mr Harper's need for a site, the absence of any realistic alternative and his personal circumstances.
- 49 For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed, subject to conditions.

Conditions

- 50 I have considered the conditions suggested by the Council and discussed at the inquiry in the light of Circular 11/95, Government advice on The Use of Conditions in Planning Permissions.
- 51 If planning permission were to be granted, the Council sought a personal condition limiting occupation until 31.12.16. Such a condition would be consistent with the life of the 2005 quarrying permission and associated restoration works, but were Mr Harper to still be in occupation at that date he would have lived on the site for over 35 years, be in his early 70s, his health is likely to have further deteriorated and there is no certainty that a suitable alternative site will be available at that time.
- 52 During the next 10 years replacement planting on the roadside embankment should provide additional screening and the harm caused by the development to the character and appearance of the area would have further reduced. Even if by 2017 all of the other restoration requirements attached to the quarrying permission had been complied with, the remaining harm caused by Mr Harper's continued occupation for a limited period would be extremely slight. Taking into account all material considerations, a limitation of 10 years on the length of the personal permission is unnecessary and would be unreasonable. I therefore intend to impose a personal condition, reflecting the importance of Mr Harper's personal circumstances to the overall balance in this case, without a time limit.
- 53 To ensure the removal of all signs of residential occupation upon Mr Harper's departure from the site and allow for full restoration in accordance with the 2005 planning permission (or any variation to those conditions) it is necessary to also impose a condition requiring the removal of all hardstandings, structures and buildings within a specified period.

- 54 To limit the scale and visual impact of the development on the surrounding area it is necessary to impose a condition preventing more than one residential caravan from being stationed on the site at any one time. Also to explicitly prohibit the open storage of waste or other materials on the land and to prevent more than one vehicle of a non-commercial nature from being kept on the land at any time. The enforcement notice issued in Nov 2003 would still be effective against all other vehicles and any open storage, although it was acknowledged at the inquiry that the low wooden fence around the site may be immune from enforcement action as it is permitted development. This condition would allow only one vehicle on the site, which could be the van Mr Harper is converting to a motor home which he would need in the event of a private prosecution requiring him to leave the site.
- 55 Conditions requiring details of replacement planting on the roadside embankment and its implementation would in time improve the screening effect of the vegetation and return the situation to something akin to the situation before the fire of 2004.

Formal Decision

- 56 I allow the appeal and grant planning permission for the siting of one caravan for residential use and the erection of 3 outbuildings (2 conjoined) for ancillary residential use at **Detling Lime Works, Hermitage Lane, Detling, Maidstone, ME14 3HW** in accordance with the terms of the application No MA/05/1462 dated 27 April 2005, and the plans submitted therewith, subject to the following conditions
- 1) The residential occupation of the site hereby permitted shall be carried on only by Ken Harper
 - 2) When the land ceases to be occupied by Mr Harper the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land and buildings and hardstandings shall be removed within 6 months of that time and the land restored in accordance with condition 22 of planning permission MA/04/335/MR42, or as varied by the local planning authority in writing
 - 3) No more than 1 caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time
 - 4) No commercial activities shall take place on the land, including the open storage of materials or waste
 - 5) No more than one vehicle, of a non-commercial nature, shall be kept on the appeal site at any time
 - 6) Within two months of the date of this decision a landscaping scheme providing for planting with appropriate native species along the embankment to Hermitage Lane shall be submitted to the local planning authority for their approval in writing. This should list the numbers, spacing, size and species of the trees and/or shrubs to be planted
 - 7) All planting shall be carried out in accordance with the approved details and within a time period to be specified by the local planning authority. Any trees or other plants which within a period of 5 years from the date of first planting 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 otherwise agreed in writing by the local planning authority

L M Drake

INSPECTOR

APPEARANCES

FOR THE APPELLANT

David Watkinson of Counsel

He called

Ken Harper

Appellant

Alison Heine MRTPI

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FOR THE LOCAL PLANNING AUTHORITY

Giles Atkinson of Counsel

He called

Stephen Clarke MRTPI

Senior Planning Officer, Maidstone Borough Council

Robin Gregory MRTPI

Principal Planning Officer, Kent County Council

INTERESTED PERSONS

Edward Sandford

EH & EG Sandford (Lime Products) Ltd

DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1 List of persons present at the Inquiry

Document 2 Copy of the letter notifying local people of the inquiry and list of those notified

Document 3 Statement of Common Ground

Document 4 Appeal decision APP/U2235/A/04/1146980, Hatching Tan, Maidstone Road, Staplehurst, 12 May 2005

Document 5 Letter from Dr ML Moss, Bearstead Medical Practice, 22 May 2006

Document 6 Letter from Robin Gregory, KCC, to Community Law Partnership, 10 February 2006

Document 7 Letter from John Bourne & Co, to Community Law Partnership, 6 May 2005

Document 8 Appeal decision APP/Q3305/A/04/1138976, Brook Farm, Barton Rd, Butleigh, Bath, 12 Jan 2005

Document 9 Appeal decision APP/V3310/C/05/2002480-1, Riverside Drove, Bartletts Bridge, Cocklade, Wedmore, Bristol, 28 Feb 2006

Document 10 Appeal decision APP/U2235/A/05/1181803, Greengates, Lenham Rd,
Headcorn, April 2006

Document 11 Statements of EG Sandford Esq as read out at the inquiry

PLANS

Plans A -C Floor plans and elevations of the buildings on the site

Plan D Location plan

Plans E & F Site plans