

APPLICATION: MA/11/2214 Date: 29 December 2011 Received: 29 December 2011

APPLICANT: Mr & Mrs Draper

LOCATION: PRIMROSE PADDOCK, STOCKETT LANE, EAST FARLEIGH, MAIDSTONE, KENT, ME15 0QG

PARISH: Coxheath

PROPOSAL: Variation of conditions 2 and 3 of appeal decision MA/04/2010 to allow the permission to include Mr Jimmy Draper (son of Mr & Mrs Draper).

AGENDA DATE: 19th April 2012

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Coxheath Parish Council

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV32
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

2. RELEVANT HISTORY

- MA/04/2010 – A change of use of the land to a gypsy site incorporating the stationing of one mobile home and one touring caravan – REFUSED – ALLOWED AT APPEAL (November 2005). I attach a copy of the appeal decision at Appendix 1 for Members information.

3. CONSULTATIONS

Coxheath Parish Council wish to see the application REFUSED and request that the application is reported to the Planning Committee stating:-

“Having considered the application and having looked again at the appeal decision in respect of application MA/04/2010, Coxheath Parish Council does not accept that there are grounds for varying the original decision. Both Maidstone

Borough Council and Coxheath Parish Council objected to the original application on the grounds that it was contrary to local plan policy, that the applicants failed to fall within the accepted definition of gypsies, that the development was intrusive into the countryside and that access to the site gave rise to conditions detrimental to highway safety.

The Planning Inspector overturned the Maidstone Borough Council decision on appeal, largely because of claims that the health of Mrs Draper would be adversely affected if she was not allowed to live on the site. Hence conditions 2 and 3 are very specific in allowing only the caravans to be sited at this location whilst Mr Chris Draper and Mrs Diane Draper are alive and when this is not the case, the site will have to be returned to its former condition. Presumably this would not have prevented Mr Jimmy Draper from living with his parents during that time.

In these circumstances and in view of the fact that the original reasons for refusal have not changed, the Parish Council's recommendation is that this application should be refused."

4. REPRESENTATIONS

4.1 No Responses.

5. CONSIDERATIONS

5.1 Site Location and Description

5.1.1 The site is a current gypsy site and is located in the open countryside on the east side of Stockett Lane approximately 300m north of the village boundary of Coxheath. The site falls within the Southern Anti-coalescence Belt as designated by policy ENV32 of the Maidstone Borough-Wide Local Plan (2000). The residential part of the site where the caravans are stationed is set a significant distance back from the road, in excess of 100m from Stockett Lane. The front portion of the site is used as grazing land for horses. At the entrance to the site is a public footpath KM49 that goes from Stockett Lane in a north easterly direction and connects to Busbridge Road.

5.1.2 The hardstanding and access already exists and there are a mobile home and touring caravan on the site, in compliance with the permission granted at appeal under reference MA/04/2010.

5.1.3 On the opposite side of Stockett Lane is an access and buildings for the 'Army Hut Farm Stables', which are surrounded by open fields and woodland beyond. To the north, immediately adjacent to the site, is another gypsy site known as

'Blossom Lodge', which was granted permanent consent under MA/08/0671 for two mobile homes and two touring caravans. There were no conditions attached to the permission relating to a personal consent i.e. it is an unrestricted permanent site for gypsies. Beyond 'Blossom Lodge' is another gypsy site that is well established and known as 'Silver Lees'.

- 5.1.4 To the east of the site are open agricultural fields interspersed with sporadic development at locations such as Forstal Farm and Coxheath Wastewater Plant.
- 5.1.5 The nearest residential properties (bricks and mortar dwellings) are in excess of 300m in a southerly direction from the residential portion of the site.

5.2 Proposal

- 5.2.1 The application is proposed and is to vary conditions of the original planning permission granted at appeal (MA/04/2010) to enable Mr and Mrs Draper's son (Mr Jimmy Draper) to reside on the site and to allow a mobile home to be stationed on the site instead of the permitted touring caravan.

5.3 Principle of Development

- 5.3.1 This site has planning permission for use as a gypsy site including the stationing of two caravans (1 mobile and 1 touring caravan). This followed a Public Inquiry in 2005 where the Inspector granted a permanent personal consent for Mr and Mrs Draper.
- 5.3.2 It is clear that from the decision that the principle of the use of the site as a gypsy site is acceptable. This application will create an additional pitch on the site (although no increase in the number of caravans) due to the fact that Mr Jimmy Draper would be living as a separate household, rather than as a dependant of Mr and Mrs Draper.
- 5.3.3 In view of this I consider the general policy background of gypsy applications to be relevant. 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"

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.

5.3.4 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.

5.3.5 A key consideration in the determination of this application is central Government guidance contained with *Planning Policy for traveller sites* published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

5.3.6 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 in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concludes the following need for pitches over the remaining Core Strategy period:-

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

These figures were agreed by Cabinet on the 14th March 2012 as the pitch target to be included in the next consultation version of the Core Strategy.

5.3.7 Draft Policy CS12 of the Regulation 25 version of the Core Strategy outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the Development Delivery DPD.

5.3.8 The Development Delivery DPD will allocate the specific sites for residential (including gypsy sites) and non-residential development, as well as dealing with

landscape designations and village boundaries. The current timetable 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 Annex 1 of Planning Policy for traveller sites (2012) 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 The gypsy status of Mr and Mrs Draper was thoroughly tested at the Public Inquiry into MA/04/2010 as part of the Council's reason for refusal centred on the fact that the Council did not consider that Mr and Mrs Draper were gypsies. The Inspector in his considerations accepted the gypsy status of Mr and Mrs Draper.
- 5.4.3 The evidence put forward for Mr Jimmy Draper indicates that he currently has no fixed abode and is living with friends and family in Kent and Sussex. He has worked in agriculture and undertaking tarmac as well as working at a pallet factory. His lack of a permanent home is acting as a barrier to him finding employment at this time. On the evidence provided I consider that Mr Jimmy Draper does comply with the definition of a gypsy and the application should be determined as such.

5.5 Need for Gypsy Sites

- 5.5.1 Planning Policy for traveller sites gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 5.5.2 A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted previously to assess the level of need for gypsy accommodation over the five year period from April 2006 to April 2011 and resulted in the overall pitch requirement being identified of 44 pitches for the whole 5 year period.

5.5.3 Between 1 April 2006 and 31 September 2011 the following permissions for mobiles have been granted (net):

- 41 Permanent non-personal permissions
- 18 Permanent personal permissions
- 8 Temporary non-personal permissions
- 29 Temporary personal permissions

Therefore a net total of 59 permanent planning permissions for mobiles have been granted between 1 April 2006 and 31 September 2011.

5.5.4 The latest GTAA (2011-2026) provides the projection of accommodation requirements as follows –

Oct 2011-March 2016	105 pitches
April 2016- March 2021	25 pitches
April 2021- March 2026	27 pitches
Total Oct 2011 – March 2026	157 pitches

The requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding.

5.5.5 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 14 Permanent non-personal permissions
- 5 Permanent personal permissions
- 0 Temporary non-personal permissions
- 1 Temporary personal permissions

Therefore a net total of 19 permanent pitches have been granted since 1st October 2011.

5.5.6 In terms of unauthorised caravans, based on the bi-annual gypsy and traveller count figures from the July 2011 count and according to the Council's database at the time of writing this report, there were 22 unauthorised mobile homes and 18 unauthorised touring caravans on 22 unauthorised sites. The number of unauthorised mobiles and touring caravans was fully taken into account in pitch need figures in the latest GTAA.

5.5.7 It is considered that the Council met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues as revealed in the latest GTAA.

5.6 Visual Impact

5.6.1 The latest guidance in the Government's Planning Policy for Traveller Sites states that Local Planning Authorities should strictly limit new traveller development in open countryside (para 23) but goes on to state that where sites are in rural areas the considerations are issues of not dominating the nearest settled community and not placing undue pressure on local infrastructure.

5.6.2 As part of the Council's reason for refusal it was argued that the development was visually intrusive particularly from Stockett Lane and the footpath and would result in harm to the character and appearance of the area. The Inspector in his decision considered the impact on the countryside was acceptable stating in paragraph 8 of the decision:-

"In these circumstances I consider that the limited visibility of the proposed development would be entirely consistent with the character and appearance of the local landscape. So too would any increase in its visibility during the winter, because I would expect that other caravans in the vicinity would also become more apparent at those times."

5.6.3 The landscaping secured as part of the Inspectors decision has been carried out and in my view the visual impact of the site is less now than it was when the appeal was considered in 2005.

5.6.4 The development would not result in an increase in the number of caravans on the site or the level of hardstanding provided. I accept that the creation of a new household on the site may result in an increase in the level of domestic paraphernalia such as washing on line, vehicles parked at the site, etc. However, I do not consider that these additional elements on the site would significantly increase the level of visual harm caused by the site.

5.6.5 The proposal would have no significant impact on the Southern Anti-Coalescence Belt.

5.6.6 As such I do not consider that the visual impact of the proposal would be unacceptable.

5.7 Highway Safety

5.7.1 As part of the Council's refusal of the original application (MA/04/2010) it was argued that the visibility onto Stockett Lane was inadequate and would result in highway safety problems.

5.7.2 At the appeal the visibility at the access was a main consideration. The appellants agreed to increase the visibility within the land under their control and the Inspector stated in paragraph 14 and 15 of his decision:-

"Therefore I conclude that the harm arising from additional turning traffic generated by the appeal proposals would be overcome by the provision of visibility splays to the north and south as proposed.

Hence, subject to the imposition of a condition requiring such splays (without which permission should be refused) I conclude that no serious harm to the safety of road users would arise from the traffic generated by the development."

5.7.3 The condition details were submitted and approved under MA/04/2010/C02 and have been implemented. I do not consider that the increase in traffic caused by the creation of an additional household on the site would have a significant impact on the safety of road users.

5.8 Residential Amenity

5.8.1 There are no residential properties (bricks and mortar dwellings) in close proximity to the site. The nearest properties are in excess of 300m in a southerly direction from the residential portion of the site. This distance is sufficient to prevent any impact on the residential amenity of the occupiers.

5.8.2 The amenity of the occupiers of the other gypsy sites in the vicinity would not be significantly harmed by the proposal to change the name or substituting the touring caravan for a mobile.

6. CONCLUSION

6.1 The site is located within the countryside and the Southern Anti-Coalescence Belt, however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for Traveller Sites.

6.2 The visual impact of the increase of domestic paraphernalia on the site is worse from short range views at the access and from the nearby footpath. However, these views were considered acceptable by the previous Planning Inspector and

the introduction of additional landscaping following that permission has further screened the site.

- 6.3 There is a need to provide gypsy accommodation within the Borough and the revised GTAA published in 2012 indicates that there is a pitch requirement of 105 pitches up until 2016. I consider that this is an acceptable site for an additional household and whilst granting permission would go toward meeting the identified need I do not give the need for gypsy accommodation much weight in the consideration of this case as the proposal is acceptable in planning terms.
- 6.4 There are no other significant planning issues that would warrant refusal of the application.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. No more than two caravans shall be placed on the land at any one time and these shall be sited only within the area shown hatched on the plan attached to this decision notice;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

2. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Chris Draper and/or Mrs Diane Draper and/or Mr Jimmy Draper (and any dependents) and shall be for a limited period, being the period during which the premises are under control of Mr Chris Draper, Mrs Diane Draper or Mr Jimmy Draper;

Reason: In order to meet the identified need of the applicant in accordance with guidance contained in Planning Policy for Traveller Sites.

3. When the premises cease to be under the control of Mr Chris Draper and/or Mrs Diane Draper and/or Mr Jimmy Draper the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its former condition prior to the commencement of the use;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in

accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

4. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

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

5. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000).

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.