

APPLICATION: MA/10/2177 Date: 21 December 2010 Received: 30 December 2010

APPLICANT: Mr W Smith

LOCATION: GREENGATES, LENHAM ROAD, HEADCORN, ASHFORD, KENT, TN27 9LG

PARISH: Headcorn

PROPOSAL: Application for planning permission for the change of use of land for the stationing of 4no static caravans for residential occupation by extended Gypsy family and associated development (stationing of 3no touring caravans, extended hardstanding and cess pool) as shown on site location plan and A4 site layout plan received on 30th December 2010.

AGENDA DATE: 4th April 2013

CASE OFFICER: Richard Timms

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

- It is contrary to views expressed by Headcorn Parish Council and they have requested the application be reported to Planning Committee.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

2. HISTORY

MA/09/1131 Retrospective application for removal or variation of condition 1 of planning permission MA/05/0518 (Retrospective application for the change of use of land from agriculture to the stationing of 1 no mobile home and 1 no touring caravan) to allow the site to be occupied by a different gypsy family – WITHDRAWN

MA/05/0518 Retrospective application for the change of use of land from agriculture to the stationing of 1 no mobile home and 1 no touring caravan – REFUSED (ALLOWED AT APPEAL)

MA/01/1320 Change of use of land to residential and stationing of 1 no. mobile home – REFUSED (ALLOWED AT APPEAL)

MA/95/0418 Change of use of land from agricultural to land for the stationing of a caravan creation of a hardstanding and siting of hut – REFUSED (DISMISSED AT APPEAL)

3. CONSULTATIONS

3.1 Headcorn Parish Council: *"Please be advised that my council would wish to see the application refused and reported to the planning committee on the following grounds*

- 1. The plans are incorrect as they fail to show the other gypsy sites in the close vicinity.*
- 2. It is an overdevelopment of the site which is a rural area away from the major settlement and is completely out of character with the area. It is recommended by the British Horse Society that each horse alone have a minimum of 1hectare for grazing, the paddock is too small to accommodate 17 horses as stipulated in the proposal document. The area for grazing will become poor quality and become weed invested and muddy. Such deterioration will have an adverse affect on the animals welfare as well as on the character and appearance of the countryside. This site is clearly visible from a well used public footpath KH331B.*
- 3. The stationing of the mobile homes, outbuildings and hardstanding with associated domestic paraphernalia would result in the loss of openness to the site harming the character and appearance of the open countryside and the quality of the Low Weald*
- 4. The combined use of this site together with other gypsy sites in the near vicinity would result in harm to the character and appearance of the open countryside and would dominate the settled community. There are already 15 gypsy/traveller pitches along this section of the Lenham Road. This further development will overwhelm the permanent residents along this road. There appears to be no family ties to the Kent area as they have all relocated from the Midlands/North England.*
- 5. The use of the site for residential occupation would lead to an unsustainable form of development that due to the distance of Headcorn which provides the local services would have a heavy reliance on the use of the motor car as there are no public transport links."*

3.2 Kent Highways: No objections.

3.3 Environmental Health: No objections subject to specific details of foul drainage.

4. REPRESENTATIONS

4.1 Local Residents:

Three representations received raising the following (summarised) points:

- Harm to the countryside.
- Site is being occupied illegally.
- Noise and light pollution.
- Dogs stray onto the road.
- Impact upon residents.
- Large number of sites in Lenham Road.

4.2 CPRE: Opposed to the application and the present situation is not comparable to the previous appeal situation.

4.3 Weald of Kent Protection Society: *"This is an important application, and we recognise the full range of arguments, for and against it, which the Borough Council will have to consider. As a Society principally concerned with countryside protection, we would only comment that the proportionate increase of dwellings and people proposed on the site is a very high one, representing a quite significant development addition at what is a sensitive site. Appeals inspectors at previous cases in the vicinity appear to have rejected similar applications."*

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The site is within the open countryside and the designated Low Weald Special Landscape Area. It is located on the south side of Lenham Road in Headcorn Parish. The site has a frontage width to Lenham Road of 40m and depth of approximately 60m. Access is in the northwest corner, which is shared with a gypsy site granted temporary permission further to the east and known as 'Long Lane'. The site is divided down the middle by a close boarded fence. Vehicular access to the northern half is off the main access then via a gravel track which runs across the front of the site. There is a hedge between this track and Lenham Road and a close boarded fence on the inside. Currently at the site is one mobile home (left by the previous owners) in the south half where the applicant and his wife live with their touring caravan on the north side. There is also a small timber shed and stable building in the northern half. The stables have been at the site for at least 5 years, and were installed before the current applicants occupation. The site is mainly laid to hard surfacing apart from a

grassed area in the southeast corner. Outside the application site immediately to the southeast is a pole barn and field where the applicant's horses are sometimes kept.

- 5.1.2 There is another gypsy site immediately to the north known as 'Acers Place' (temporary and personal permission until 2017) and immediately beyond this 'Oak Tree Farm' where application MA/10/1522 is pending. To the south of the site is open agricultural land, which has a belt of deciduous trees which front Lenham Road. To the north, and on the opposite side of the road are other gypsy sites including a large site known as 'The Meadows' for which temporary permission was granted at appeal in 2011 for 10 mobile homes and 19 tourers.

5.2 Planning History

- 5.2.1 Following an inquiry held in 2002, temporary and personal permission was granted for the stationing of 1 mobile home on the site for 3 years. (This was for a different family to the current applicants). That family then applied for permanent permission under MA/05/0518, which the Council refused. At the appeal (2006), the Inspector considered that there would be harm to the character and appearance of the Special Landscape Area but, *"this would be at the very local level in an area where there have been authorised gypsy caravan sites for many years."* She gave substantial weight to the appellant's personal circumstances (mainly health issues) and the lack of alternative accommodation or a needs assessment at the time of the appeal. On this basis, a permanent but personal permission was granted.

5.3 Proposal

- 5.3.1 Retrospective permission is sought to use of the site as a residential caravan site for a different gypsy family but with proposed additional development. The proposal is for 4 mobile homes (3 more than on site) and 3 tourers (2 more than on site). Two new mobiles would be sited on the north half of the site, and an additional mobile would be sited at the rear on the south half, which would involve extension of hard surfacing over the grassed area here. One tourer would be positioned on the north half and two on the south half.
- 5.3.2 The family includes Mr & Mrs Smith (who live on site), and their three daughters and their families who would live in the other 3 mobile homes (total of 8 adults and 6 children). The daughters and their families currently travel and visit the site in their touring caravans, but wish to move onto the site to provide a settled base for their children to attend school.

5.4 Principle of Development & Policy Background

5.4.1 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"

ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing Policy H36 but this is not a 'saved' policy.

5.4.2 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) 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.

5.4.3 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. 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 procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded 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. However, an amended target was agreed by Cabinet on 13th March of **187 pitches** (30 additional pitches) to reflect the extension of the new Local Plan period to 2031.

5.4.4 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.

5.4.5 Since this, the Local Development Scheme approved by Cabinet on 13th March 2013 approved the amalgamation of the Core Strategy Local Plan and the

Development Delivery Local Plan, to be called the Maidstone Borough Local Plan. The single local plan would contain policies together with the balance of all land allocations (including gypsy and traveller sites). The timetable for adoption is July 2015.

- 5.4.6 Issues of need are dealt with below but, in terms of broad principles Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.
- 5.4.7 In the case of this specific site, use as a gypsy site has been accepted previously, albeit for personal use only. The view of the Inspector being that the harm was outweighed by personal circumstances but was still sufficient not to justify an unrestricted permission.

5.5 Gypsy Status

- 5.5.1 Annex 1 of the PPTS 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."

- 5.5.2 It is stated that the family have travelled widely. Mr Smith was born in Ireland but has lived most of his life in England. His wife is from the Welsh gypsy family (Price). They have frequently travelled through Kent for work doing mostly scrap metal dealing and landscaping in Ashford, Folkestone, Maidstone and Dartford areas. They usually managed to stop on farm land including land in Charing. For some 20 years they have owned and over-wintered on a gypsy site in Leicestershire. They sold the site in 2007/08 and returned to living on the road travelling mainly around the south coast and the Cotswolds stopping on waste ground, farm land and laybys. Mr Smith is a horse dealer and has kept horses all his life. He goes to all the main horse fairs and horse dealing is his main source of income. The family have never lived in housing. Reference is also made to other family members whose gypsy status has been accepted elsewhere in the country. A letter has also been provided from a person who used to run an adult learning project for Leicestershire County Council which states she has known Mr Smith and his family for 20 years and that they are from a Romany Gypsy family. He states that the family frequently left the area for reasons of finding work, travelling to fairs and joining up with family. This would sometimes be for weeks or months at a time. In terms of the daughter's husbands, it is stated that they are from gypsy families, have travelled in the past and continue to travel for work.

5.5.3 From the evidence provided, I consider that Mr & Mrs Smith and their family comply with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.6 Need for Gypsy Sites

5.6.1 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.6.2 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 |

However, an amended target was agreed by Cabinet on 13th March of **187 pitches** (30 additional pitches) to reflect the extension of the new local plan period to 2031.

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

30 Permanent non-personal permissions

6 Permanent personal permissions

0 Temporary non-personal permissions

7 Temporary personal permissions

Therefore a net total of 36 permanent pitches have been granted since 1st October 2011.

5.6.4 It must be noted that 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. However, the latest GTAA clearly reveals an ongoing need for pitches.

5.7 Visual Impact

- 5.7.1 The latest guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 23) but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.
- 5.7.2 The development, including the existing mobile home, hard surfacing and fencing is visible from Lenham Road when approaching the site from the south, but the presence of 15m deep belt of trees on adjoining land means that views are broken. When nearer to the entrance to the site the development is much more intrusive where the hard surfacing, fencing and caravans are highly visible and this would be increased with the proposed additional mobiles. The large expanse of hard surfacing, particularly the track which runs along the front of the site is harmful and the roadside hedge is sparse so does not serve to screen this.
- 5.7.3 When approaching the site from the north from around 100m away, existing and proposed caravans would be visible to the rear of the site, although they are seen in the context of the two sites in front. Getting nearer to the site from this direction, the native hedging along the front of the neighbouring sites does serve to partly screen the site.
- 5.7.4 I note there are also relatively clear views of the site from public footpath KH331B on higher ground around 260m south of the site, where the whole site is in view and detracts from the landscape.
- 5.7.5 I agree with the previous Inspector that the development is harmful to the area but this is localised with no significant medium to long range landscape impact. However, the proposal is for significant additional development at the site in the form of 4 mobile homes and 3 caravans and the attendant paraphernalia that comes with four families. My view is that the site would cause unacceptable harm to the countryside and Special Landscape Area. I therefore do not consider a permanent permission is appropriate for this site.

5.8 Personal Circumstances

- 5.8.1 No specific personal reasons to live at this site have been put forward apart from stating that Mr and Mrs Smith are seeking somewhere to live on account of their age, and that some of the children have and will attend the local school.

5.9 Residential Amenity

5.9.1 There are neighbouring residential gypsy sites to the north but there is boundary fencing between so sufficient privacy is provided. The nearest houses are over 180m away and at this distance, I do not consider there would be any harm to amenity.

5.10 Highways

5.10.1 Visibility distance to the north was an issue discussed at the appeal in 2006. The Inspector considered that as the site had been used for residential purposes for over 4 years, and for agricultural purposes for considerably longer, and because there have been no recorded personal injury accidents during that time, the access was not so sub-standard such as to be a danger to users of Lenham Road. Kent Highways have been consulted on the current application and raise no objections also confirming that there have been no injury crashes in the last 3 years.

5.11 Other Matters

5.11.1 In terms of impact on ecology, the site has been in existence since 2001 and so any implications for ecology occurred at that time, and I note this has not been raised as an issue by the Council or Inspectors under applications and appeals.

5.11.2 The number of sites on Lenham Road has been raised by the Parish Council and objectors and the PPTS states that sites should not dominate the nearest settled community. This was an issue discussed in the Public Inquiry appeal decision into 'The Meadows' site opposite for 10 mobile homes and 19 tourers (56 people) in 2011. Here the Inspector considered that the communities of Headcorn and Ulcombe were too large and too distant from the appeal sites for them to be dominated by the proposed developments. In terms of Lenham Road, he considered that the site would not be so large or so close as to harmfully dominate the settled community which, he stated, includes a significant number of Gypsies and Travellers. For this reason, I do not consider the 4 mobile homes and 14 people proposed to live at the application site could be said to dominate the nearest settled community.

5.11.3 The issue of the number of horses kept of the applicant's field to the rear has been raised, however this is not part of the application. Notwithstanding this, horses are not currently kept in the field and there are no immediate plans to do so. I understand Mr Smith main work was as a horse dealer but due to his age does not carry out this work regularly anymore.

5.11.4 Drainage is currently provided by a single cess pit and it is proposed to provide another to serve all 4 mobile homes. Environmental Health have recommended that these details are submitted by condition.

6. CONCLUSION

- 6.1 I consider that there would be visual harm to the countryside but I agree with the previous Inspectors that this is localised. This must be balanced against the ongoing need to provide gypsy accommodation. Whilst the Council is working towards providing policy in relation to gypsy and traveller development, providing land allocations and a new public site, at present there are no adopted policies in place, no sites are available (public sites are full) and no land is allocated. The level of local provision, need for sites, and availability of alternative accommodation are key issues to consider under the PPTS.
- 6.2 In the past Inspectors have found that there is a substantial unmet need for sites and there are no alternative suitable sites that are available. In these circumstances they have allowed temporary permissions because the planning circumstances are expected to change (through the Council providing sites). Circular 11/95 *The Use of Conditions in Planning Permission* advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission.
- 6.3 I also note that in two appeal decisions from May 2012 and March 2013 near Laddingford (under the PPTS and latest GTAA), Inspectors have considered there to be a high and pressing need for sites in Maidstone. In the case of one site, of similar size to this application, the Inspector considered the site to be harmful to the countryside but because of the lack of alternatives and the impacts vacating the site would have on the family, a temporary permission was appropriate.
- 6.4 In this case, I consider localised harm to the countryside would be caused. In balancing the general need to provide sites, the current policy position and the lack of alternative sites against the level of harm caused, in this case, I consider that a temporary permission is appropriate. The Local Plan which would include gypsy and traveller site allocations is timetabled for adoption in July 2015. As such, the planning circumstances will change at this time.
- 6.5 I am conscious that the Council granted temporary permission until 2017 at 'Acers Place' immediately to the north giving a 5 year permission. The committee report recommended 3 years and it is unclear why a 5 year period was approved as this was not tied into to any timetable for land allocations. I consider that any temporary period should be tied to the allocations timetable (July 2015) in line with Circular 11/95, which is 2 years and 3 months away. However, due to the

permission immediately adjacent and to allow reasonable time to find an alternative site, I consider it would be reasonable to allow a 3 year permission until April 2016.

- 6.6 Whilst there are no strong medical, educational or other needs identified for the applicant's family to occupy this site, there is a personal need for them to have a settled base. The site will meet this personal need and on this basis I recommend a personal and temporary permission.
- 6.7 I have discussed potential landscaping measures to reduce the impact of the site with the applicant. He explained that he wishes to retain the gravel track along the front of the site, which is particularly harmful, but could provide additional planting to strengthen the front hedge and also on the outside of the close-boarded fencing behind. Whilst this would not make the site acceptable, it would potentially improve its appearance and as the applicant is agreeable to this, I consider it could be attached as a condition.
- 6.8 I am recommending conditions restricting this to a personal and temporary permission, restoration of the site, restricting the number of caravans, restricting any business use, landscaping, details of foul drainage, details of lighting, and removal of permitted development rights for boundary treatments in the interests of visual amenity.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The occupation of the site hereby permitted shall be carried on only by the applicant Mr Walter Smith, his wife Beryl Smith, and their daughters Charlene O'Riley, Crystal Smith, Beryl Smith, and their husbands/partners and resident dependents, and shall be for a limited period of three years, or the period during which the site is occupied by them, whichever is the shorter.

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 reflect the personal need of the applicant and her family and to enable the situation to be reviewed when work is complete on the Development Delivery Local Plan. This is in accordance with Maidstone Borough-Wide Local Plan 2000 policy ENV28, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

2. When the land ceases to be occupied by those named in condition 1 or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all development, materials and equipment brought onto the land in connection with the residential use of the site, shall be removed and the land

restored to its former condition;

Reason: To appropriately restore the site in the interests protecting the character and appearance of the countryside and Special Landscape Area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

3. No more than 7 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 4 shall be a static caravan or mobile home) shall be stationed on the site at any 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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

4. No commercial or business activities shall take place on the land;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside and nearby properties in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

5. Within 3 months of the date of this decision, specific details of the proposed means of foul and surface water disposal shall be submitted to the Local Planning Authority for approval in writing. The development shall thereafter be undertaken in accordance with the approved details;

Reason: In the interests of proper drainage and prevention of pollution in accordance with the NPPF 2012.

6. Within 3 months of the date of this decision details of existing and any proposed external lighting within the site shall be submitted to the Local Planning Authority for approval in writing. 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 Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

7. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected at the site;

Reason: To ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

8. Within 3 months of the date of this decision a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall include retention and strengthening of the roadside hedge and planting to soften existing fencing within the site and shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted and to ensure a satisfactory setting and external appearance to the development in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out either before, or in the next planting and seeding season following approval (October 2013 to March 2014). Any trees or plants which die, are removed or become seriously damaged or diseased for the period that the residential use is permitted at the site, 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 an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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

Site location plan and A4 site layout plan received on 30th December 2010.

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000), the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

Note to Applicant:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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.