

APPLICATION: MA/13/0587 Date: 4 April 2013 Received: 4 April 2013

APPLICANT: Mr John Smith Junior

LOCATION: 2 , LITTLE APPLEBY, LUCKS LANE, CHART SUTTON, MAIDSTONE,
KENT, ME17 3FB

PARISH: Chart Sutton

PROPOSAL: An application to vary conditions 1 and 2 of MA/11/0675
(retrospective application for the change of use of land from
agriculture to residential for a gypsy family with the stationing of
three mobile homes, two touring caravans and the erection of two
timber sheds) to allow the stationing of 5 caravans, of which no
more than 4 shall be a static caravan or mobile home and to allow
the additional mobile to be occupied by Mr Joseph Smith and his
wife Mrs Karline Smith, and their resident dependents.

AGENDA DATE: 18th July 2013

CASE OFFICER: Catherine Slade

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

- It is contrary to views expressed by the Chart Sutton Parish Council and they
have requested it be reported to Planning Committee for the reasons set out
below.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
- Government Policy: National Planning Policy Framework (2012), Planning Policy
for Traveller Sites (2012)

2. HISTORY

MA/11/0675 - Retrospective application for the change of use of land from
agriculture to residential for a gypsy family with the stationing of three mobile
homes, two touring caravans and the erection of two timber sheds – APPROVED
SUBJECT TO CONDITIONS

MA/91/1161 - Section 64 determination for the erection of a field shelter –
REFUSED

MA/90/1655 - Hardstanding for the tending loading and unloading of livestock (cattle) and also siting of shelter and feed store – REFUSED

MA/79/0970 - Stationing of caravan to provide shelter and meals, garden shed for storage of tools etc – REFUSED

3. CONSULTATIONS

3.1 **Chart Sutton Parish Council:** *"Chart Sutton Parish Council wishes to see the application REFUSED and requests that it is reported to Planning Committee. The Parish Council believes the site is already overcrowded and is concerned about the disposal of sewerage/waste as there are no mains sewers at this site. The Council believes this will affect the River Beult, which is a clay river of low flow. It is designated a SSSI and allowing untreated or partially treated sewerage into the river would be extremely detrimental."*

3.2 **KCC Biodiversity Officer:** Raise no objections – *"The hedgerows within and surrounding the site are to remain unaffected by the proposed amendments. As a result we have no comments to make on this application - as we feel that the proposed changes have limited potential to impact on protected/notable species or habitats."*

3.3 **MBC Landscape Officer:** Raise no objections.

4. REPRESENTATIONS

4.1 No neighbour representations have been received.

5. CONSIDERATIONS

5.1 Introduction

5.1.1 This is an application for the variation of conditions 1 and 2 of permission MA/11/0675, which approved the change of use of land from agriculture to residential for a gypsy family with the stationing of three mobile homes, two touring caravans and the erection of two timber sheds at '2 Little Appleby' (formerly "Land west of Horseshoes Paddock"), Lucks Lane, Chart Sutton. Condition 1 restricts the number and type of caravans at the site while condition 2 restricts occupation of the site. A copy of the committee report and decision notice relating to this MA/11/0675 is attached as Appendix 1.

5.1.2 The variations seek to allow the siting of an additional mobile home, with no increase in the total number of caravans stationed on the land, and its occupation by Mr Joseph Smith, his wife Mrs Karline Smith, and their resident

dependents. Mr Joseph Smith was formerly a dependant of Mr John Smith Senior and Mrs Louisa Smith, and currently resides with his wife and child on the site in a tourer.

5.2 Site Description & Planning History

- 5.2.1 The application site is located in open countryside to the south of Lucks Lane, an unclassified public highway. The site is not subject to any national or local environmental designations, however the southern boundary of the Greensands Way Special Landscape Area is marked by Lucks Lane in this location. Notwithstanding the comments of the Parish Council, there are no Sites of Special Scientific Interest in the locality.
- 5.2.2 The application site comprises a gypsy and traveller site granted a permanent, personally restricted, permission at Planning Committee in February 2012 under application MA/11/0675. The consent approved a change of use of a field to a caravan site for occupation by persons of gypsy status, the accommodation approved comprising five caravans of which no more than three can be mobile homes or tourers to be occupied by the persons listed in condition 2 attached to MA/11/0675.
- 5.2.3 The site is a rectangular plot with an area of approximately 1700m², and a width of 23m. The site is hard surfaced in the areas on which caravans are stationed, with grassed areas in the along the eastern part of the site and the central part of the west of the site. At the time of the site visit there were three mobiles and two tourers on the land, which were stationed in the approximate positions shown on the A1 site layout plan approved under MA/11/0675. The site frontage, which has a located centrally vehicular access, comprises a mature native hedge which includes trees. The rear boundary of the site is also marked by a native hedge, whilst the east boundary has been planted with willow and other species, in accordance with the landscaping scheme required by condition 6 attached to MA/11/0675 (approved under MA/12/0497), although the approved scheme has not to date been implemented in full.
- 5.2.4 The land to the south and north of the site is in agricultural use. The land immediately to the east of the site is in unauthorised use as a gypsy site, the use being currently under consideration under the scope of MA/12/1044, also reported on the papers. Beyond this, at the junction of Lucks Lane and Chart Hill Road, is a further gypsy site known as "Horseshoe Paddock", which was granted a personal planning permission at appeal in 2000 and 2004 for two statics/mobile homes and two tourers. The three sites are all occupied by members of the same family. The land to the west of the site is used as a paddock associated with Horseshoe Paddock.

5.3 Proposal

- 5.3.1 Permission is sought for the stationing of an additional static caravan/mobile on the site, with no overall increase in the number of caravans on the land. Condition 1 of MA/11/0675 would therefore be varied to allow no more than five caravans on the land, of which no more than four can be static caravans/mobile homes. The additional mobile home would be occupied by Mr Joseph Smith and his wife Mrs Karline Smith, and their resident dependents, including a pre-school age child. These persons are currently residing on the site in a touring caravan. Consent is also sought for the variation of condition 2 to allow these parties to reside on the land as non-dependants of named persons listed in condition 2 of MA/11/0675.
- 5.3.2 The additional mobile home would be sited in the position of the tourer to be removed from the land, to the south of the mobile home located closest to the entrance to the site, on an existing area of hardsurfacing.

5.4 Principle of Development & Policy Background

- 5.4.1 Clearly, a gypsy and traveller site has been recently accepted at the site by the Council with a restriction on the maximum number of caravans of five, of which no more than three shall be static caravans or mobile homes. Condition 1 restricted numbers and types of caravans for the following reason:

"To safeguard the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy CC4 of The South East Plan 2009."

- 5.4.2 The occupation of the site under the scope of MA/11/0675 is restricted by condition 2 to Mr John Smith Senior and his wife Louisa Smith, their son Mr John Smith Junior and his resident dependents, and their granddaughter Ellen Smith and her resident dependants.
- 5.4.3 As such, the main consideration is whether the additional caravan would result in unacceptable harm to the countryside, and whether occupation of the site by Mr Joseph Smith, Mrs Karline Smith and their resident dependents is justified in the circumstances of this case.
- 5.4.4 In terms of policy, 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"

5.4.5 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.

5.4.6 Work on the Local Plan 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 wifeship 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

5.4.7 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 2013 of **187 pitches** (30 additional pitches) to reflect the extension of the new Local Plan period to 2031.

5.4.8 The Local Development Scheme approved by Cabinet on 13th March 2013 also 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.

5.4.9 Draft policy CS12 of the emerging Local Plan (Cabinet agreed 13th March 2013) outlines that the Maidstone Borough Council need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the allocation of sites.

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 The gypsy status of all families at the site was accepted under application MA/11/0675 and the additional caravan would be for occupation by the son, wife and resident dependants of Mr and Mrs Smith as a result of the growth of this gypsy and traveller family. As such, I am satisfied that the variation is sought in respect of genuine additional gypsies or travellers, and that the use of the land for such purposes can be adequately secured by way of conditions.

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

As outlined above, 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):

43 Permanent non-personal permissions
9 Permanent personal permissions
0 Temporary non-personal permissions
25 Temporary personal permissions

Therefore a net total of 52 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 Personal Circumstances

- 5.7.1 The original permission was granted in part as a result of the personal circumstances of the applicants, who have ongoing health and educational needs, which were considered to represent material considerations which weighed in favour of approval of a grant of planning permission.
- 5.7.2 The current application seeks to vary condition 2 attached to MA/11/0675 in order that members of the same family, who currently live on the site as dependents of the applicants, may occupy a mobile home. It is understood that following the death of Mr John Smith Senior and the birth of Ellen Smith's second, third and fourth children, that Mr Joseph Smith and Mrs Karline Smith have a significant role in providing care to Mrs Louisa Smith who is in continuing poor health. A letter has been provided to this effect from the Cobtree Medical Practice. Given the ongoing health requirements of older members of the family and the educational needs and maturation of younger members of the family, together with the natural growth of the family groups within the unit, it is considered that the variation to allow occupation of the site by the named individuals and resident dependants (who in any case have historically resided on the site) is acceptable.
- 5.7.3 The applicant has confirmed that a single tourer will be adequate for the current expected travelling needs of the occupiers of the site.

5.8 Visual Impact

- 5.8.1 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 National Planning Policy Framework and clearly under Maidstone Borough-Wide Local Plan policy ENV28.
- 5.8.2 The site is already established and benefits from a permanent, albeit personal, consent and so it needs to be considered whether an additional static caravan would result in unacceptable harm to the landscape. I agree with the previous assessment under MA/11/0675 that the site is not prominent or unduly harmful, and is reasonably well screened in medium and long range views from Lucks Lane, Chart Hill Road and the KH558 public footpath by existing landscaping and planting which has yet to reach full maturity. Although the additional mobile

home would be visible in views through the site access, the extent of the landscaping to the northern boundary of the site is such that these views would be limited and would be limited in oblique views from elsewhere on the public highway.

- 5.8.3 The additional static caravan would be sited in the position of a tourer of similar scale which would be removed as a result of approval of the current application, and as such it is not considered that the proposal under consideration would result in significant additional visual harm, or undue consolidation or intensification of the use of the site. It is noted that the proposed variation would not result in the introduction of any additional area of hard surfacing, or loss of landscaping. My view is that the extent of the existing and approved screening and the scale of the site are such that the additional mobile home can be accommodated without causing any significant or unacceptable harm to the landscape.

5.9 Residential Amenity

- 5.9.1 The application site is located immediately adjacent to an unauthorised gypsy site, Horseshoes Paddock, which is the subject of a currently undetermined application for a change of use to land as a residential (MA/12/1044), beyond which is a further gypsy site which was granted planning permission for the (MA/11/0675). There is no reason to expect that the domestic activities that would result from the exchange of a tourer for a mobile home would result in any undue harm to the residential amenity of the occupiers of these sites.
- 5.9.2 The nearest permanent dwellings are located approximately 90m to the south and 130m to the north east; the proposal would not have any impact upon the residential amenity of the occupiers of these properties.

5.10 Highways

- 5.10.1 The existing access has previously been fully assessed and found to be of an adequate standard, and it is not considered that the proposal would result in any harm to highway safety by way of additional traffic.

5.11 Other Matters

- 5.11.1 The Kent County Council Biodiversity Officer has confirmed that there would be no detrimental implications for ecology from the additional mobile home.
- 5.11.2 Foul drainage is currently dealt with by way of cess pit, the details of which were approved under discharge of conditions application MA/12/0497. Receipts have been provided to indicate that the structures hold up to 2000 gallons of

waste. It is not considered that the replacement of a tourer with a mobile home will place undue strain upon the existing installation.

6. CONCLUSION

- 6.1 It is not considered that the variation of condition 1 to allow an additional mobile home with no overall increase in the number of caravans allowed to be stationed on the site, would result in any significant additional visual or other harm. In the context of a growing family the variation of conditions 2 and 3 to allow occupation of the site by Mr Joseph Smith, Mrs Karline Smith and their resident dependents in addition to the persons named in condition 2 attached to MA/11/0675 is acceptable.
- 6.2 I therefore recommend that permission is granted subject to conditions. Being an application to vary conditions of the original consent, and therefore in effect creating a new permission, I propose conditions securing the quality of the development as imposed under MA/11/0675 and requiring the use to be undertaken in accordance with the details approved under MA/12/0497, where relevant.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. No more than 5 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 one time;

Reason: To safeguard the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy as set out in the National Planning Policy Framework 2012.

2. The occupation of the site hereby permitted shall be carried on only by Louisa Smith; her son Mr John Smith Junior and his resident dependents; her son Mr Joseph Smith, Karline Smith and their resident dependants; and her granddaughter Ellen Smith and her resident dependants;

Reason: The personal circumstances of the applicant and his family are considered to represent overriding grounds to allow planning permission and in order to protect the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and central

government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012.

3. When the land ceases to be occupied by those named in condition 2 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority;

Reason: To appropriately restore the site in the interest of protecting the character and appearance of the countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and central government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012.

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

Reason: To prevent inappropriate development, safeguard the amenity, character and appearance of the countryside and safeguard highway safety in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and central government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012.

5. No external lighting, other than that approved under MA/12/0497, shall be installed at the site;

Reason: To prevent inappropriate development, safeguard the amenity, character and appearance of the countryside and safeguard highway safety in accordance with policies ENV28 and ENV49 of the Maidstone Borough-Wide Local Plan 2000 and central government planning policy as set out in the National Planning Policy Framework 2012 and Planning Policy for Traveller Sites 2012.

6. The details of landscaping approved under MA/12/0497 shall be implemented in full during the next planting and seeding season following the date of this decision 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 an appropriate setting to the site in the interests of visual amenity in accordance with policies ENV6 and ENV28 of the Maidstone Borough-

Wide Local Plan 2000 and central government planning policy as set out in the National Planning Policy Framework 2012 and 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 beyond those approved under condition 8;

Reason: in the interest of protecting the character and appearance of the countryside and to prevent the deliberate isolation of the occupiers from other members of the community in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000, and central government planning policy as set out in the National Planning Policy Framework 2012 and 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 acceptable as submitted and no further assistance was required.

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.