

R. Odone
17/01/12

APPLICATION: MA/11/0675 Date: 16 May 2011 Received: 20 December 2011

APPLICANT: Mr J Smith

LOCATION: LAND WEST OF HORSESHOES PADDOCK, LUCKS LANE, CHART SUTTON, MAIDSTONE, KENT

PARISH: Chart Sutton

PROPOSAL: 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 as shown on A1 site location plan received on 24th May 2011 and A1 site layout plan received on 20th December 2011.

AGENDA DATE: 26th January 2012

CASE OFFICER: Richard Timms

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

- It is a controversial development due to the receipt of a petition of approximately 1200 signatures referring to the application.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV28
- The South East Plan 2009: CC6, H4, C4
- Government Policy: PPS1, PPS3, PPS4, PPS7, PPS9, PPS23
- Circular 01/2006: Planning for Gypsy & Traveller Caravan Sites

2. HISTORY

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

Chart Sutton Parish Council: Wishes to see the application REFUSED but do not wish the application to be reported to Planning Committee.

"Wishes to see the application REFUSED because: it is an agricultural field in greenfield site in open countryside; is outside any area of development; there are no mains services available and the demand has already been met for Gypsy/Traveller sites in Maidstone."

KCC Biodiversity Projects Officer: No objections

"No ecological information has been submitted in support of this application. We have reviewed the desk top information available (OS maps, aerial photographs, site photographs, biological records) and consider that there is minimal potential for ecological impacts as a result of the proposals."

The site itself does not appear to have had particular ecological interest, comprising short grassland. Of greatest potential value are the hedgerows to the northern and southern boundaries. The 1993 Kent Wildlife Habitat Survey found that these hedgerows were species-rich (at least five 'woody species' and 'associated features' in a 30m stretch – see the Hedgerows Regulations 1997 for full details), and this is very unlikely to have changed. From the site photographs, it appears that the creation of the entrance has required approximately 4-5 metres of hedgerow to be removed."

There are no woodland areas linked to the site so we do not consider there to be a 'reasonable likelihood' of dormouse presence in the hedgerow. Had we been consulted prior to the development taking place, we would have advised that works affecting the trees/vegetation be undertaken outside of the bird nesting season in order to minimise potential for damage/destruction of active bird nests. We do not consider an ecological survey to be necessary."

The key principles of Planning Policy Statement 9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it. We note the intention to plant trees around the perimeter of the site and advise that the planting should be of a native species mix in order to achieve the maximum ecological benefit."

MBC Environmental Health Manager: Grant approval subject to a condition requiring more specific drainage details and any caravan sites licence conditions being met.

Kent Highway Services: No objections

4. REPRESENTATIONS

Neighbours: Five representations received raising the following points:

- Visually intrusive and harmful to the countryside.
- Change of use of agricultural land.
- Access has been created by destroying part of a hedge.

- Large quantity of similar sites in the area and there seems to be no limit on the numbers.
- We understood there was a cap on the number of mobile homes in relation to private houses.
- Totally illegal.
- Does not appear to be a planning notice at the site.
- Any native of the Parish would be unsuccessful in getting planning permission.
- Any consent should be conditional upon adequate screening.

Petition:

A petition of approximately 1200 signatures in relation to the open countryside around Wierton, Chart Sutton, Boughton Monchelsea and the Greensand Way has been received which makes references to a number of gypsy sites, including the application site and also to a proposed residential conversion. To summarise it states that the Council has the highest number of authorised and unauthorised sites in Kent, considers that the Council has a lack of rigour concerning process and enforcement and that checks and procedures have not been followed and that it has not planned sufficiently to meet the needs of travellers with the result that many have had to resort to unlawful developments which is harming community cohesion and is not fair on the residents, nor on the travellers.

(The Council agreed that the petition be referred to the Cabinet at a future date (to be considered as a representation on the Core Strategy), the Planning Committee (in so far as it relates to "live" planning applications and enforcement generally) (considered on 12th January 2012) and the Regeneration and Economic Development Overview and Scrutiny Committee (to consider the policy implications and make recommendations to the Cabinet as appropriate) (considered on 25th October 2011). The petition therefore has/will be fully considered by the Council and as such, no specific comments relating to it are made in this report)

Weald of Kent Protection Society: *"Not only are the proposed buildings etc in open countryside where such building is normally not permitted, but the site also seems particularly "unsustainable", since it is on an open agricultural field, not well located as regards transport access or proximity to facilities, and likely to have negative visual impact on countryside. We recognise that there may be genuine shortage of sites, but this one is surely particularly unsuitable."*

5. CONSIDERATIONS

5.1 Introduction & Site Description

- 5.1.1 This is a retrospective application for the change of use of land to residential for a gypsy family with the stationing of three mobile homes, two touring caravans, two timber sheds and associated works at 'Little Appleby', Land West of Horseshoes Paddock, Lucks Lane, Chart Sutton.
- 5.1.2 The site is located within the open countryside with no special landscape designation, although the Greensand Ridge Special Landscape Area is immediately to the north. The site is a rectangular parcel of land located on the south side of Lucks Lane, approximately 1700m² in area. It is located within the centre of a grassed field with a road frontage width of around 23m where hedging and trees have been removed to provide vehicular access. It extends back from the road southwards for around 74m where it meets a hedge boundary here.
- 5.1.3 At the time of my site visit there were two static mobile homes and three touring caravans but the applicant intends to replace one of the touring caravans with a static mobile home (total of 3 static and 2 tourers). One mobile is sited towards the front, north of the site on the west side. This is occupied by the applicant Mr John Smith snr. and his wife Louisa. The other mobile is at the rear of the site and is occupied by Mr John Smith jnr., his wife Mary and their son John (18 yrs). One of the tourers is being lived in by John jnr's daughter Ellen Smith and her partner Henry and their 2 children (both under 2yrs) and this is to be replaced with a static mobile home within the middle and on the west side of the site. Ellen is also expecting another child. The two tourers are for the family when travelling.
- 5.1.4 There is hard surfacing at the site entrance and around the mobile homes. There are grass areas retained on the east and west sides and at the rear. There is a timber shed (to be retained) and temporary toilet (to be removed) in the northwest corner and temporary toilet within a shed (to be removed) near to the rear boundary. There is also a small moveable storage container here. There is stock proof fencing along both sides of the site.
- 5.1.5 Either side of the site are grassed fields grazed by horses owned by the applicant's nephew who lives at the gypsy site 'Horseshoe Paddock' around 55m to the east. This site has a personal permission for 2 mobile homes and 2 tourers allowed at appeal in 2000 and 2004. To the rear, south is an established hedge around 3m in height with an open grassed field in different ownership beyond. The site frontage with Lucks Lane is formed by an established deciduous hedge with trees and there is a short section of 2m high timber fencing (to be

removed) on the west side of the access which has timber gates set back from the road.

- 5.1.6 Apart from the 'Horsehoes Paddock' site, the nearest dwellings are 'Lambs Cross Farm' around 90m south of the site and 'Noons Farm' around 130m to the northeast.

5.2 Proposal

- 5.2.1 This application proposes a retrospective change of use of agricultural land to a residential caravan site for occupation by a gypsy family. As outlined above there would be 7 adults and 2 children living on the site. The family previously lived at a site in the AONB in Wealden District, East Sussex but had to move off following a dismissed appeal which will be discussed in more detail below.
- 5.2.2 This involves three mobile homes and two touring caravans with the layout as currently on site and set out above but with new native hedge and tree landscaping. The shed (5m x 2.5m and approx. 2m in height) at the front of the site would be retained and the temporary toilet removed. A new shed would be erected at the rear of the site to replace the temporary toilet. Two septic tanks would provide foul drainage and one has already been installed at the front.

5.3 Principle of Development

- 5.3.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers"

- 5.3.2 ENV28 then outlines the types of development that can be permitted. This does not include gypsy development: this was previously formally covered under housing Policy H36 but this is not a 'saved' policy.
- 5.3.3 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management

of the region's open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.3.4 PPS7: Sustainable Development in Rural Areas outlines at paragraph 15 that:

"Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced."

5.3.5 PPS4 is also considered relevant, as whilst it relates to economic development, it provides the Government's most recent stance on the protection of the countryside at Policy EC6 –

"Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all."

5.3.6 Also key in the determination of this appeal is Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites will need to be found in rural areas. The Government has carried out consultation on a Planning Policy Statement for traveller sites but this guidance has not yet been finalised or formally adopted so I attach it little weight.

5.3.7 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas. The Core Strategy will set the target pitch figure for the Borough for the period 2006 to 2016. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites. The initial Core Strategy public consultation has recently ended, which includes the agreed Cabinet target of 71 pitches for the period 2006 to 2016.

5.3.8 The Local Development Scheme Priority Documents were considered by Cabinet on 8th June 2011. In relation to the Gypsy and Traveller Pitch Allocations DPD, Cabinet agreed to no longer pursue this as a specific DPD but instead to merge it with, and allocate pitches within the overall Land Allocations DPD (under a new title of Development Delivery DPD). (The Land Allocations DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries). A revised Local Development Scheme was reported to the Task and Finish Panel on the 20 September 2011 with a revised timescale for the adoption of documents. This indicates that the Development Delivery DPD is scheduled for adoption in March

2015. This Council, in partnership with Sevenoaks District Council, has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment and work on that continues.

- 5.3.9 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

5.4 Gypsy Status

- 5.4.1 Circular 01/06 defines gypsies and travellers as: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."*
- 5.4.2 I have reviewed a recently dismissed hearing appeal decision (Ref. APP/C1435/A/09/2116465 - 16th March 2010) within Wealden district where the Inspector was satisfied that the Smith family are gypsies for the purpose of the Circular. They are of Romany Gypsy origin. They lived in Australia for over 30 years where they had an itinerant lifestyle and travelled for work purposes. The family returned to England in the early part of 2006 following a tragic incident where one family member died and another was injured. The family have various health issues, that will be discussed below and therefore have stopped travelling. They are related to the Smiths at Horseshoe Paddock who's gypsy status has been accepted. I am satisfied they comply with the Circular definition.

5.5 Need for Gypsy Sites

- 5.5.1 Planning Policy Statement 3: Housing makes specific reference to the need to accommodate Gypsies and Travellers. Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.
- 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 Since April 2006 the following permissions for pitches have been granted (net):
- 50 permanent non-personal permissions

15 permanent personal permissions
8 temporary non-personal permissions
27 temporary personal permissions

- 5.5.4 Therefore a net total of 65 permanent planning permissions have been granted since April 2006.
- 5.5.5 The Council has agreed its public consultation draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches so there is currently a shortfall of 6 pitches. This target is currently being updated as a revised Gypsy and Traveller Accommodation Assessment is being carried out.
- 5.5.6 In terms of unauthorised pitches, based on the most recent July 2011 count and according to the Council's database at the time of writing this report, there are 51 unauthorised mobile homes and 72 touring caravans.
- 5.5.7 Numerous Inspectors at appeal consider that the level of unauthorised mobiles is an indication of general need; however, I do not consider this to be currently overriding.
- 5.5.8 It is considered that the Council has met the Identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011.

5.6 Visual Impact

- 5.6.1 Whilst there is no criteria-based policy for the determination of gypsy caravan applications (Circular 01/06 is the key document), the impact of such developments on the character and appearance of the countryside is a key consideration.
- 5.6.2 The application site is not located in an area designated for its landscape value. I have visited the site in both the summer and winter and the site is generally well screened from Lucks Lane by the established hedgerow along the lane's south side in the summer. In the winter it is more easily seen but any views are still broken by the hedging. The site is clearly visible when standing at the entrance to the site and there are some limited views through an access around 60m to the northwest on the lane. Whilst easier to see in winter, I consider the roadside hedgerow provides a good natural screening of the site.
- 5.6.3 Further from the site, the hedgerows bounding both sides of Lucks Lane screen any views from Chart Hill Road further to the northeast. There are glimpses of the caravans through the existing Horseshoe Paddock site at the junction of Chart Hill Road and Lucks Lane but the site is not prominent from here.

Otherwise the site is not clearly visible from Chart Hill Road. From public footpath KH558 between 180m and 320m to the west there are broken views of some caravans between established hedging, although again I would not suggest the site is prominent or overly intrusive from here. Following this path to the east the site is generally well screened by intervening hedgerows and there are only broken glimpses from the footpath around 85m south of the site.

- 5.6.4 Overall, I consider the visual impact of the site is low in the wider landscape but there are short range views from Lucks Lane and glimpses from the public footpath and limited points on Chart Hill Road. The site is more visible during the winter months but additional landscaping could further screen the site and reduce its visual impact. The applicant has proposed native hedge planting with trees along both flanks of the site, by the access and a line of trees within the centre of the site. Existing hedging and trees at the front and rear would be retained. In time this landscaping would help the site assimilate into its setting and reduce the impact of the development. I also consider the amount of hard surfacing could be reduced and landscaped which would be beneficial. My view is that whilst the site causes some impact upon character and appearance of the countryside here, it is not a significant impact.
- 5.6.5 There is the nearby traveller site to the east but I consider the separation distance of 55m is such that they do not result in a significant harmful impact when seen together and the proposed landscaping would reduce any impact. There are other traveller sites on Chart Hill Road but I do not consider that a granting of permission here would lead to an unacceptable over-concentration in terms of visual impact, given the spacing between the respective sites.

5.7 Personal Circumstances

- 5.7.1 The applicant has put forward various personal circumstances as part of their submission, many of which were fully considered under the dismissed appeal at Wealden, East Sussex. (This appeal was dismissed due to the visual impact of the development, however, this site was located within an AONB, a national landscape designation that benefits from the highest level of landscape protection)
- 5.7.2 I consider it important to review the Inspector's discussion of the applicant's accommodation needs and personal circumstances as they are still much the same. He stated as follows:

"The appellants consider that a settled site is needed as a base for their extended family. Given their traumatic experience stemming from the incident in Australia where a family member died and another was injured, mutual support from relatives is valued. With regard to mutual support, I am also aware that the appellants are of pension age and that Ellen Smith gave birth to a daughter last November, and she is now pregnant again. The family therefore consider it important that they stay together as a group. The

appellants consider that permanent dwellings would not provide appropriate accommodation for the family because it would be alien to their gypsy lifestyle and culture.

There are material personal circumstances relating to health and education. Doctor's letters dated 7 September and 9 November 2009 have been submitted in support of the appeal. The letters indicate that the family are under a great deal of stress which is having an adverse impact on their health and that the stress is related to the issues regarding the family living on the site, and also to the longer term issues related to the incident in Australia. One family member, who has had a stroke, now has a heart condition and serious health problems, whilst another has a condition where the body rejects its kidneys. Other family members suffer from hypertension, depression, insomnia, and psoriasis. At the hearing it was mentioned on behalf of the appellants that the family member who has the heart condition has deteriorated over the last two years and has become a registered disabled person during this time. However, there is no detailed medical evidence before me to support the contention that there has been deterioration.

However, it is my opinion that there has not been a significant change in personal circumstances since February 2008 when the previous Inspector mentioned those before him in his decision letter. I can only concur with the previous Inspector and find that none of the personal circumstances currently before me demonstrate a need for the appellants to be on the appeal site. The medical conditions referred to also occur in the settled population. Nevertheless, I consider it likely that access to education and health facilities would suffer if the family members were unable to live on a settled site. I therefore conclude that there are material personal circumstances which weigh in favour of the appeal."

5.7.3 Since that decision, the applicant outlines that the family had to move from the Wealden site and had nowhere to go so lived on the roadside for a short period. Because of the applicant's ill health and their grand daughter's two young babies it was not considered suitable and so they moved on to this proposed site. Many of the same people who were living on the Wealden site are also living on this site. Those at the application site have put forward the following health and general issues.

5.7.4 A letter from the Cobtree Medical Practice (June 2011) outlines that the applicant's both suffer with serious long term medical conditions. Dr Michale Hever states that,

"John Smith Snr. has Ischaemic Heart Disease causain chest pain and breathlessness on minima exertion, Cerebrovascular Disease (stroke) causing arm and leg weakness, and depression and post-traumatic stress disorder having witnessed the brutal and tragic murder of their son in Australia. Louisa suffers from Hypertension (high blood pressure) and likewise chronic depression and post-traumatic stress disorder. Having to move yet again would be very likely to cause you both further stress and upset."

- 5.7.5 Various doctor's letters from 2006 to 2009 have also been submitted which state the same. Doctor's letters have been submitted from the previous Wealden site (7th September 2009) stating that their son John Smith jnr. suffers from hypertension.
- 5.7.6 Since submission of the application John Smith Snr. has been diagnosed with lung cancer which is confirmed by letters from the Cobtree Medical Practice and Heart of Kent Hospice (November 2011) and is due to be treated with radiotherapy. Ellen Smith is pregnant and expecting a baby in May 2012, which is confirmed by correspondence from the Cobtree Medical Practice.
- 5.7.7 The applicant's wife states that she and her husband need their family with them to provide support and I note that this was referred to in the previous appeal decision where the Inspector states that, *"with regard to mutual support, I am also aware that the appellants are of pension age and that Ellen Smith gave birth to a daughter last November (2009), and she is now pregnant again. The family therefore consider it important that they stay together as a group."* She outlines that it is a gypsy tradition to live together as one extended family unit.
- 5.7.8 The Inspector considered there to be material personal circumstances relating to health issues and living together as one unit but felt that none of the personal circumstances demonstrated a need for the appellants to specifically live on the Wealden site. Nevertheless, he considered it likely that access to education and health facilities would suffer if the family members were unable to live on a settled site and so concluded that these were material personal circumstances.
- 5.7.9 The personal circumstance of the applicant's have changed since that April 2010 decision with John Smith Snr. now being diagnosed with lung cancer, Ellen Smith and her partner having another baby and expecting another. In my view the personal circumstances now attract greater weight in favour of the development than before. I consider that the applicant and his wife benefit greatly from other family members living on site both for support and for practical reasons (e.g. providing lifts to their GP and hospital) and that they all provide valuable support for one another. I agree with the previous Inspector that although the personal circumstances do not necessitate the family to live at this particular site, it would provide a settled base to provide access to essential health facilities. I consider that these are material personal circumstances that weigh in favour of the proposal.

5.8 Residential Amenity

- 5.8.1 The nearest dwellings are 'Lambs Cross Farm' around 90m south of the site and 'Noons Farm' around 130m to the northeast. At this distance I do not consider any adverse impacts upon residential amenity would occur in terms of privacy

and disturbance. I consider the site is a sufficient distance (55m) from Horseshoe Paddocks such that the amenity of both sites is acceptable.

5.9 Highways & Sustainability

- 5.9.1 There is good visibility onto Lucks Lane from the access and traffic is unlikely to be travelling at high speeds on this narrow lane. I consider that the use of the site would not result in any significant highway safety issues, and no objections have been raised by the KCC Highways Engineer. I also consider the local highway network is capable of accommodating the relatively low level of vehicle movements involved.
- 5.9.2 It is inevitable that gypsy traveller sites will be located beyond the bounds of settlements and within the rural area. In my view this site is not so remote from basic services and public transport opportunities as to warrant objection on the basis that this is not a sustainable location being under 2km from Chart Sutton and 2.5km from Sutton Valence. The site will provide easier access to GP and other health services and prevent potential unauthorised roadside stopping so in the context of Circular 01/06, I consider the site is not so unsustainable so as to warrant an objection.

5.10 Ecology

- 5.10.1 The site was part of a grass field which was partly grazed by horses. No objections have been raised by the KCC Biodiversity Projects Officer who does not consider an ecological survey is necessary as the site does not appear to have had particular ecological interest. The hedgerows to the north and south are considered important and these would be retained, obviously apart from that lost to create the access. New native hedge and tree planting would provide benefits and overall I consider there to be no grounds to object in relation to ecology.

5.11 Drainage

- 5.11.1 Two septic tanks would be provided (one is installed) both 3080 litres capacity. I have discussed this with the Environmental Health section and they have confirmed that this capacity should be sufficient for the number of people on site but the applicants will need to contact the Environment Agency to establish/obtain a consent to discharge. This could potentially be refused and an alternative solution required so I consider a condition to ensure any arrangement is agreed and finalised is reasonable to prevent any pollution of the environment.

5.12 Other Matters

- 5.12.1 Other issues raised on the application not considered above relate to the change of agricultural land, a cap on the number of mobile homes in relation to private houses, that a native of the Parish would be unsuccessful in getting planning permission and no planning notice at the site. The proposals would not result in the loss of the best and most versatile agricultural land. There is no 'cap' on the number of mobile homes allowed in relation to houses but I do not consider the proposals would lead to unacceptable over-concentration of sites or any harmful impact upon residential amenity. The applicant's fall within the definition of gypsies and travellers and so in principle can be allowed to live at rural locations under current planning policy and law. A site notice was attached to the telegraph pole outside the site on Lucks Lane on 17th June allowing 21 days for any comments and I note it is still in place.

6. CONCLUSION

- 6.1.1 I consider there is some harm to the countryside here but it is localised mainly to a short section of Lucks Lane and the site is not prominent or unduly harmful in any medium to long range views both in the summer and winter. The site is also not located in an area designated for its landscape value. My view is that the harm is not significant and could be reduced through new landscaping at the site. Nonetheless there is some harm to the countryside.
- 6.1.2 I consider there are strong material personal circumstances that weigh in favour of the development for the applicants, mainly relating to issues of health but also the benefits of the family living together to provide support for one another and having a settled base that provides regular access to health services. In balancing this against the level of harm, which I do not consider to be significant, and the fact that the site can be further landscaped, I consider that the applicant's personal circumstances outweigh this level of harm. On this basis, I consider a permanent permission is justified but that it should be personal to the applicant's family as this has been a determining factor in my decision.

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 3 shall be a static caravan or mobile home) shall be stationed on the site at any one time. The static caravans shall only be sited in the positions as shown on the site layout plan (1:200 scale) received on 20th December 2011;

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 C4 of The South East Plan 2009.

2. The occupation of the site hereby permitted shall be carried on only by the applicant 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;

Reason: The personal circumstances of the applicant 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 policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009) and guidance in Circular 01/2006.

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.

Reason: To safeguard the amenity, character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

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 in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

5. Within 2 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 Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

6. Within 2 months of the date of this decision specific details of the landscaping scheme as shown on the site layout plan (1:200 scale) received on 20th December 2011, outlining indigenous species, details of hedges and trees 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 plan shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall also include the reduction in the amount of hard surfacing and its replacement with soft landscaping.

Reason: No such details have been submitted and 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, Policy C4 of the South East Plan 2009.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next planting and seeding season following their approval 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, Policies CC1 and C4 of the South East Plan 2009 and PPS7.

8. Within 2 months of the date of this decision details of all fencing and boundary treatments shall be submitted to the Local Planning Authority for approval in writing. The details shall include retention of the post and wire fencing along the sides of the site and a reduction in the amount of close-boarded fencing at the front of the site.

Reason: No such details have been submitted and to ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South East Plan 2009.

9. Within 3 months of the date of this decision full details of the proposed means of foul water disposal shall be submitted to the Local Planning Authority for approval in writing. If septic tanks are to be used you will need to provide evidence of approval or consent from the Environment Agency. 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 PPS23.

10. 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: To ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South East Plan 2009.

11. The development hereby permitted shall be carried out in accordance with the following approved plans: A1 site location plan received on 24th May 2011 and A1 site layout plan received on 20th December 2011.

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 C4 of The South East Plan 2009.

Informatives set out below

The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Manager on 01622 602145 in respect of a licence.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.

Cobtree Medical Practice

Dr Michael Heber

Southways
Sutton Valence
MAIDSTONE, Kent
ME17 3HT

16 April 2013

Mrs Louisa Smith
Little Appleby
Lucks Lane
Chart Sutton
Maidstone
Kent
ME17 3EX

MA 13/0587


Dear Mrs Smith,

You asked me to write a letter of support for your planning application. Please feel free to use this letter.

Your son Joseph and his wife Karlene are currently living on your site in a touring caravan, without permanent heating or toilet and washing facilities. Karlene is providing you with support and acting as your carer since the sad death of your husband. You suffer with high blood pressure, depression and deteriorating arthritis.

It would be advantageous for all of you if permission were granted for Joseph and Karlene to have a mobile home on the site.

Yours sincerely,


Michael Heber



Directorate of Change, Planning and the Environment
Maidstone House, King Street, Maidstone, ME15 6JQ

DEVELOPMENT CONTROL

Mr J Smith
Little Appleby
Lucks Lane
Chart Sutton

My Ref: MA/11/0675
Date: 26 January 2012

TOWN AND COUNTRY PLANNING ACTS

Town and Country Planning (General Permitted Development) Order 1995
Town and Country Planning (Development Management Procedure) (England)
Order 2010

TAKE NOTICE that **THE MAIDSTONE BOROUGH COUNCIL**, The Local Planning Authority under the Town and Country Planning Acts, has **GRANTED PLANNING PERMISSION** in accordance with the details set out below:

APPLICATION: MA/11/0675

DATE RECEIVED: 20 December 2011 DATE VALID: 20 December 2011

APPLICANT: Mr J Smith

PROPOSAL: 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 as shown on A1 site location plan received on 24th May 2011 and A1 site layout plan received on 20th December 2011.

LOCATION: LAND WEST OF HORSESHOES Paddock, LUCKS LANE, CHART SUTTON, MAIDSTONE, KENT

GRID REF: 578994, 148628

This permission is **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 3 shall be a static caravan or mobile home) shall be stationed on the site at any one time. The static caravans shall only be sited in the positions as shown on the site layout plan (1:200 scale) received on 20th December 2011;

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 C4 of The South East Plan 2009.

Continuation of decision: MA/11/0675

2. The occupation of the site hereby permitted shall be carried on only by the applicant 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;

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 policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009) and guidance in Circular 01/2006.

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.

Reason: To safeguard the amenity, character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

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 in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

5. Within 2 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 Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

6. Within 2 months of the date of this decision specific details of the landscaping scheme as shown on the site layout plan (1:200 scale) received on 20th December 2011, outlining indigenous species, details of hedges and trees to be

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/11/0675

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 plan shall be submitted to the Local Planning Authority for approval in writing. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall also include the reduction in the amount of hard surfacing and its replacement with soft landscaping.

Reason: No such details have been submitted and 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, Policy C4 of the South East Plan 2009.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next planting and seeding season following their approval 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, Policies CC1 and C4 of the South East Plan 2009 and PPS7.

8. Within 2 months of the date of this decision details of all fencing and boundary treatments shall be submitted to the Local Planning Authority for approval in writing. The details shall include retention of the post and wire fencing along the sides of the site and a reduction in the amount of close-boarded fencing at the front of the site.

Reason: No such details have been submitted and to ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South East Plan 2009.

9. Within 2 months of the date of this decision full details of the proposed means of foul water disposal shall be submitted to the Local Planning Authority for approval in writing. If septic tanks are to be used you will need to provide evidence of approval or consent from the Environment Agency. The

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/11/0675

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 PPS23.

10. 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: To ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South East Plan 2009.

11. The development hereby permitted shall be carried out in accordance with the following approved plans: A1 site location plan received on 24th May 2011 and A1 site layout plan received on 20th December 2011.

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 C4 of The South East Plan 2009.

Informatives set out below

The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Manager on 01622 602145 in respect of a licence.

The applicant should contact Maidstone Borough Council Landscape Officers in advance of submitting and implementing any approved landscaping scheme and work closely with them to ensure an effective delivery of the scheme.

This application has been considered in relation to the following policies:

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/11/0675

Maidstone Borough-Wide Local Plan 2000: ENV28

South East Plan 2009: CC6, H4, C4

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.

Signed

R.L.L. Jarman

Rob Jarman
Head of Planning

Date 26 January 2012

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**THIS IS NOT A BUILDING REGULATION APPROVAL**

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approvals, have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

**TAKE NOTICE** that this decision does not confirm compliance with Section 53 of The County of Kent Act, 1981 and, therefore, it will be incumbent upon the applicant to ensure they comply with the said requirement.

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IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES