

APPLICATION: MA/13/1315 Date: 24 July 2013 Received: 25 July 2013

APPLICANT: Mr J Baker and Others

LOCATION: QUARTER PADDOCKS, BLETCHENDEN ROAD, HEADCORN, KENT,  
TN27 9JB

PARISH: Headcorn

PROPOSAL: Continued occupation of the site as a gypsy caravan site (planning application refused under ref:MA/03/2366 but allowed on appeal) but with variation of the following conditions to allow:  
Condition 2 : To enable unrestricted occupation by any gypsy/traveller family (currently restricted to applicant and dependents);  
Condition 3 : To enable permanent occupation by gypsy and traveller family (currently restricted to 4 years expiring on the 31st July 2013) and ;  
Condition 4: Increase in number of caravans on site (currently permitted 3 static and 2 tourers) to 4 static and 4 tourers. as shown on drawing received on the 25th July 2013.

AGENDA DATE: 20th March 2014

CASE OFFICER: Graham Parkinson

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

- it is contrary to views expressed by the Parish Council
- it is contrary to views expressed by the Environment Agency

## 1. **POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

## 2. **RELEVANT HISTORY**

- 2.1 MA/03/2366: Change of use of land to residential incorporating the stationing of three mobile homes and two touring caravans for an extended gypsy family – REFUSED – 16<sup>th</sup> February 2004.
- 2.2 The appeal against the above refusal was allowed on the 31<sup>st</sup> July 2009 subject amongst other things to, conditions to secure the following:
- Restriction on occupation of the site to the applicants and family members;
  - Use granted for a limited (4 year) period expiring on the 31<sup>st</sup> July 2013.
  - No more than 5 caravans to be stationed on the site at any one time (of which no more than 3 shall be static caravans or mobile homes).
  - No commercial activities including storage of materials
  - No floodlighting and only one light per mobile home
  - Details of maintenance of drainage ditches, internal site layout and landscaping.  
(Appeal decision attached as appendix 1)

### **3. CONSULTATIONS**

#### **3.1 Headcorn Parish Council:** Objects on the following grounds:

- Site is not acceptable for the reasons set out in the appeal decision referred to in appendix 1.
- Should further temporary planning permission be granted would be prepared to accept this up until 2015 in line with emerging policies on Gypsy and Traveller accommodation.
- Headcorn Ward has highest concentration of gypsy and travellers sites in Maidstone Councils area and proposal is not conducive to good community relations.

#### **3.2 Environment Agency:**

##### 3.2.1 Comments received on application as originally submitted:

- The site falls just within Flood Zone 3a. The development is classed as highly vulnerable and therefore should not be permitted within zone 3a.
- However as the site already exists and in accordance with the sequential tests, a flood risk assessment (FRA) should be submitted to demonstrate that there is safe and dry emergency access to the main road for residents.

##### 3.2.2 Following submission of an FRA the following response was received:

- Maintains objection to vulnerable development in Flood Zone 3a.

- Note that caravans are higher than 1:100 yr flood level however there is a distance of over 100 metres from the caravan site to the access road where the flood depth will be 150mm.
- After about 100 metres the road level rises before dry access is reached heading east on the A274.
- As such comes down to issues of emergency access and escape and the emergency planning officers at the Council/KCC should be consulted.

3.3 **Kent Highway Services:** No objection

#### **4. REPRESENTATIONS**

4.1 In addition to the display of a site notice four properties were consulted. One representation was received as follows:

- Site should remain for use by applicant and extended family only- cannot see any justification for widening use further.
- No long term decision on the future of the site should be taken until provision for Gypsy and Traveller accommodation has been finalised.
- Concerned that the current use of the site is already in breach of conditions. If permission for 6 is allowed how will occupancy be monitored and enforced.
- Based on number of rubbish bins at the site consider that this does not correspond to 5 dwellings.
- Sewage entering ditches, this is causing harm to local environment which must be addressed before further planning permission is granted.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.1.1 The application site is located around 1.5 km to the south of Headcorn and has a frontage onto the south side of Bletchenden Road of about 100 metres. The site has a central access serving an internal road serving the mobile homes which are laid out on defined plots. The road frontage of the site is landscaped with substantial planting abutting both sides of the access track and for part of the length of the internal service road.

5.1.2 At the rear of the application site is a large paddock area. One additional mobile home is being stationed abutting the application site at its south east corner.

##### **5.2 Proposal**

5.2.1 The application seeks to continue using the site for gypsies and travellers without restricting its occupation to the applicants and their family members

only, that permanent permission now be granted and that the number of caravans on site (currently limited to 3 static and two tourers) shall increase to 4 statics and 4 tourers.

5.2.2 The following has been submitted in support of the application:

- The applicants would accept renewal on a further temporary basis with named occupants for 5 caravans in the same manner as agreed at the 2009 appeal.
- If the development is now considered appropriate and acceptable no longer any need to make condition personal.
- Would not object to a personal consent if temporary permission only granted.
- Only family members would occupy site but condition should only apply to the adults.
- George and Priscilla Harber have need for a larger caravan and there is a need for the additional caravan to accommodate new household formation at the site.
- The applicants have strong local connections with the area with some of the residents of the site having ongoing health issues.
- The Council continues to make insufficient provision to meet identified demand for gypsy and traveller accommodation.
- There is now good reason to suspect that a better site will not be found meeting the applicants needs that will be deliverable and close to a settlement.
- That the site, which is now well screened due to substantial landscaping from public vantage points, has been occupied for many years without incident.

5.2.3 Regarding the additional mobile home that is being stationed outside the application site without the benefit of planning permission the following response has been received:

- The additional plot is occupied by Obie Harber Jnr aged about 21 and his wife, who is expecting a baby.
- He is related to other occupants of the site
- He is suffering from severe health issues requiring constant monitoring and it has always been expected he would live with family for support with his illness.

#### **5.4 DISCUSSION:**

5.4.1 The key issues in relation to this proposal are considered to be whether there have been any material change in circumstances to now justify granting planning permission for the amendments now sought.

5.4.2 The appeal decision attached as appendix 1 is considered to be a key material consideration in assessing the above.

## **5.5 Principle of Development**

5.5.1 There are no saved Local Plan Policies that relate directly to this type of development. Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 (MBWLP) 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.

5.5.2 A key consideration in assessment of this application is Government guidance contained in '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.

5.5.3 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. 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 Local Plan period:

Oct 2011 – March 2016	105 pitches
April 2016 – March 2021	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

These figures were agreed by Cabinet on the 13<sup>th</sup> March 2013 as the pitch target to be included in the next consultation version of the Local Plan.

5.5.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13<sup>th</sup> March 2013 that the Borough need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites.

5.5.5 The timetable for the Local Plan's adoption is July 2015.

5.5.6 Issues of need are dealt with below but, in terms of general principles Government Guidance clearly allows gypsy sites to be located in the countryside as an exception to the general policy of restraint.

## **5.6 Gypsy Status**

5.6.1 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 dependents’ 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”.*

5.6.2 The gypsy status of the applicants is not challenged, it being accepted that they comply with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites and this was the view taken at the appeal.

## **5.7 Need for Gypsy Sites**

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

5.7.2 As stated above, the projection accommodation requirements is as follows –

Oct 2011 – March 2016	105 pitches
April 2016 – March 2012	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

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

48 Permanent non-personal permissions

9 Permanent personal permissions

0 Temporary non-personal permissions

28 Temporary personal permissions

Therefore a net total of 57 permanent pitches have been granted since 1<sup>st</sup> October 2011. As such a shortfall of 48 pitches remains outstanding.

5.7.4 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. This explains why the need figure appears so high in the first 5 years.

## **5.8 Visual Impact**

5.8.1 The preferred locations for Gypsy and Traveller accommodation is normally outside AONB's, areas having Green Belt status and areas liable to flooding. The application site is located in countryside falling within the Low Weald Special Landscape area (SLA). It is therefore subject to provisions of policies ENV28 and ENV34 of the adopted Local Plan. In broad terms policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes clear that exceptions will be permitted if justified by other policies contained in the plan. In SLA's subject to policy ENV34 landscape considerations will normally take precedence over other matters.

5.8.2 It is generally accepted that mobile homes are visually intrusive development out of character in the countryside. They are therefore unacceptable in their visual impact unless well screened or hidden away in unobtrusive locations. The preference is therefore for them screened by existing permanent features such as existing hedgerows, tree belts, existing buildings or the lie of the land.

5.8.3 The Inspector at the appeal concluded that notwithstanding the potential for additional planting, the use of the land harmed the rural character of the area and that of the SLA. As such granting permanent planning permission would be seriously harmful to the character and appearance of the area.

5.8.4 However since temporary planning permission was granted on appeal in July 2009, substantial planting that has taken place both on the site frontage and within the site which has now matured. The net result is that apart from views through the access into the site, the site is now so generally well screened that the visual impact of the caravans and associated domestic paraphernalia on the wider area is now very limited.

5.8.5 The Inspectors comments on the fundamental visual harm caused by the site and which he considered could not be mitigated by additional landscaping, are noted. However these comments were made in the absence of planting being in place such that there was speculation as to the likely mitigating impact of planting.

5.8.6 It is therefore considered that given the screening effect of the landscaping that has now taken place and, subject to the imposition of a condition requiring hedging to be maintained at a height of no less than 3 metres, this, to some extent mitigates the visual impact of the site on the rural character of the area and that of the SLA such that the Inspectors concerns are considered to be materially addressed.

## **5.9 Unrestricted occupation:**

5.9.1 In making occupation of the site personal the Inspector attached significant weight to the need of the residents of the site to (a) access to good medical care provided by a settled lifestyle (b) access to care provided by an extended family (c) the range and severity of health problems that required a settled lifestyle (d) the education of children would be disrupted if they had to leave the site and (e) the applicants local connections.

5.9.2 In granting temporary planning permission the Inspector concluded that given the personal circumstances of the applicants, summarised above, it was necessary to restrict occupation to the applicants and their family members.

5.9.3 Since planning permission was granted the applicants still continue to have strong local connections to the area along with multiple health issues requiring a settled stable lifestyle with access to care provided by family members and local health services.

5.9.4 It is also understood that the site would continue only to be occupied by the applicants and their extended family. However given the wording of the current condition, each time the family circumstances of the adult members change a fresh planning permission would be required.

5.9.5 While the use of the site remains temporary, any consent would have to reflect the special circumstances of the applicants therefore requiring continuation of the occupancy restriction.

5.9.6 Were granting permanent planning permission considered to be justified it is not felt that restricting occupation to any particular family group would satisfy any planning aim subject to the site remaining for gypsy and traveller use only.

## **5.10 Permanent permission**

5.10.1 The Inspectors concerns regarding harm to the rural character of the area and landscape quality of the SLA, for the reasons already discussed above, have been partially mitigated.



5.10.2 It is considered that there has been a material reduction in the identified visual harm to the area. It should also be noted that there is an ongoing lack of alternative sites for gypsy and traveller accommodation which is still unlikely to be resolved for some time yet. To place this more in perspective, at the time of the appeal decision need was based on the South East plan figures of 32-48 pitches to 2016. The need has now increased to 105 pitches to 2016 with this target and still being some way from being met.

5.10.3 It should also be taken into account that this is a long established site with occupants having close family ties and links with the surrounding area while occupying a sustainable location just 1.5 km to the south of Headcorn with its range of local facilities. It is therefore considered that in the absence of compelling objection on flooding grounds this site is a suitable candidate for permanent consent while also making a material contribution to satisfying the identified need for such sites within the Borough.

### **5.11 Additional caravans:**

5.11.1 Regarding the need for the further units, the additional accommodation is required to serve the existing needs of this extended family unit. The unauthorised siting of the mobile home that has already taken place outside the recognised site area by another family member it is considered, lends weight to the case of need, which is not disputed.

5.11.2 The site is spacious and now well screened apart from the access and it is evident there is more than sufficient capacity to accommodate additional caravans as proposed in an acceptable manner irrespective of whether further temporary or permanent planning is granted.

5.11.3 Where an existing site is identified as one that can accommodate additional units in an acceptable manner without harm to visual amenity and in the absence of any other material constraints, it is considered that the opportunity should be taken to maximise the use of the site as one appropriate for gypsy and traveller accommodation. This will materially assist in meeting the identified need set out above while helping to minimise the pressure for development in more sensitive locations.

### **5.12 Flooding**

5.12.1 The site is located within Flood Zone 3a and the Environment Agency (EA) has raised an objection in principle on flooding grounds.

5.12.2 The EA confirms that the caravans are higher than 1:100 year flood level though there is a distance of over 100 metres from the caravan site to the access road where the flood depth will be 150mm(6ins).

5.12.3 The EA acknowledges that after about 100 metres the road level rises before dry access is reached heading east on the A274. The key outstanding issue is that of emergency access and escape.

5.12.4 The applicants have submitted a detailed FRA but their response to the EA in summary is that while the EA updated its modelling in 2007 which extended the flood zone, when planning permission was granted at appeal in 2009 no flood related issues were raised. Though acknowledging that the site is occupied by vulnerable development and vulnerable residents the site has never flooded.

5.12.5 The applicant has also set out a detailed response to the EA's objection relating to emergency access and escape which are summarised as follows:

- The caravans are clear of the 1:100 year flood level. The caravans and their occupants would be free of flooding in the worst flooding event and could sit out any danger.
- That despite the extreme recent flooding event the site was not flooded neither was the road in front of the site leading to the main road to the east.
- The road is located at the edge of the flood zone such that it would be slow to flood and early drain while any flooding would be of short duration.
- The depth of flooding at 150mm would not present access problems to either vehicles or pedestrians. It is not conceivable that the site would be cut off by this level of flooding while the length of road susceptible to flooding is a short straight stretch.
- The site occupants could sign up to receive EA flood warnings such that any vulnerable persons could make suitable arrangements beforehand.

5.12.6 Notwithstanding the above, public safety is a material planning consideration which must be taken into account in assessing this application. In the absence of any evidence that (a) the site has at any time been flooded and (b) apart from the area around the access road, which would only be subject to limited inundation for a relatively short duration, with adequate preparation the applicants and their families would, it appear not be exposing themselves to an unacceptable level of risk.

5.12.7 The emergency services are under an obligation to provide assistance as necessary. Nevertheless placing them at greater risk than necessary as part of any planning decision should be avoided. No evidence is available from emergency services nor has the Council in its possession evidence which it can apply to this situation. Given maximum projected flood levels around the site

access and in the absence of evidence to the contrary, it is not considered that members of the emergency services would be exposed to unacceptable risk.

5.12.8 Apart from the site access it is acknowledged by all parties that the wider site area has never been flooded. The site provides accommodation for a number of families that are now well established with clear links to the locality. Given that possible flooding is restricted solely to the site access and in the absence of any evidence to the contrary, the risk to emergency services and resident's alike looks to fall within acceptable limits. As such there is considered to be insufficient reasons to raise objection to use of the site, temporary or otherwise, on flooding grounds, despite the objections of the EA on emergency access and escape grounds.

## **6. Residential Amenity**

6.1 There are considered to be no nearby dwellings likely to have their outlook or amenity materially affected by the proposals.

## **7. Highways Safety**

7.1 The site access is existing and the application is not the subject of objection by Kent Highways. In the circumstances there is not considered to be any sustainable objection to what is proposed on highway grounds.

## **8. Other matters:**

8.1 Though there is considered to be no objection to the additional caravans proposed within the recognised site area, the applicants acknowledge the siting of a further caravan outside this area. The occupants of the caravan are part of the wider family unit and given the special health needs of one of the occupants, there is little doubt he benefits from the close care and support afforded by other site members.

8.2 The applicants have advised that they will not be seeking planning permission to retain this caravan as part of the current application. They want this dealt with on its own merits as a separate application.

8.3 Regarding concerns relating to sewage from the site entering local watercourses, the applicants have responded as follows. Each unit has its own cess pit which is emptied on a regular basis, usually about once every 1-2 months.

8.4 In addition the EA is aware of this concern but having inspected the site on 3 to 4 occasions has no evidence to support such an objection. Finally even if it was established that run off into local watercourse was taking place this would be the

subject of action by the EA. It is not a matter that can be taken into account by the Council in determining this planning application.

## **9. CONCLUSIONS**

9.1 These are considered to be as follows:

- Planting of substantial screening belts since temporary planning permission was allowed on appeal means that the site is now well screened such that its visual impact on the rural character of the area and the SLA has been reduced.
- In the absence of significant visual harm, the increased need for gypsy and traveller accommodation since the appeal was allowed, sustainable location of the site, the applicants links to the local area and their ongoing occupation of the site since at least 2003, it is considered, makes this site a suitable candidate for granting permanent consent.
- Granting permanent consent will make a material contribution to satisfying the identified need for such sites while helping to minimise the pressure for similar development in more sensitive locations.
- Family circumstances justify the additional caravans while the size of the site and its well screened location means they can be accommodated without material visual harm to the wider area.
- The site, apart from the access to it does not flood.
- That flooding was not raised as an issue at the appeal despite the flood zone being extended before the appeal took place.
- Given the above there is considered to be no sustainable objection to the proposals on flooding grounds having regard to the precautions that existing and future residents will take and lack of evidence that residents or the emergency services will be exposed to unacceptable risk.
- No objection on highway or parking grounds.

9.2 In the circumstances it is considered appropriate to recommend that permanent planning permission be granted, that the occupancy condition be set aside and that the additional caravans as sought can be stationed on site.

## **10. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The screen planting both on the on the site frontage and within the site shall be allowed to grow up to a height of 3 metres and shall be retained no lower than 3 metres in height at all times thereafter. Should any planting die or become dying, diseased or dangerous it shall be replaced with the same species within the first available planting season and maintained at all times thereafter in accordance with the provisions of this condition.

Reason: To screen the development in the interests of visual amenity.

3. No more than four static residential caravans as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and four touring caravans, which shall not be used for habitation purposes, shall be stationed on the site at any one time. The caravans hereby permitted shall only be sited as shown on the approved drawings.

Reason: To accord with the terms of the application and in the interests of visual amenity.

4. Should any residential caravan that is on the site be removed at any time, it shall be replaced with a mobile home that accords with the definition as contained in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

Reason: In order to conform with the use of the site as a gypsy and traveller site.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside and nearby properties.

6. No floodlighting or column lighting shall be installed and no more than one external light source shall be affixed to any mobile home.

Reason: To safeguard the night time rural environment in the interests of visual amenity.

7. The site shall only be occupied by gypsies and travellers as defined DCLG guidance 'Planning policy for Traveller Sites' published in March 2012 as set out in Annexe 1.

Reason: To reflect the special circumstances of the application.

### **Informatives set out below**

Planning permission will be required to retain the caravan located outside the application site in its current position.

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement

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 there are no overriding material considerations to indicate a refusal of planning consent.