

APPLICATION: MA/08/1766 Date: 30 August 2008 Received: 22 September 2008

APPLICANT: Mrs M Powell

LOCATION: FIELD KNOWN AS WHEATGRATTEN, LENHAM FORSTAL ROAD, LENHAM, KENT

PARISH: Lenham

PROPOSAL: Retrospective application for the change of use to caravan site to provide gypsy accommodation with 4 plots, including 4 mobile homes and 6 touring caravans and associated works (including hardstanding, fencing, utility buildings and cess pool) and keeping of horses as shown on unnumbered site location plan, block plan and utility block drawing and supporting information received on 3/9/08 and 19/9/08.

AGENDA DATE: 18th March 2010

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Lenham Parish Council

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, T13

South East Plan 2009: C4, H5

Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites*

2. HISTORY

No history

3. CONSULTATIONS

3.1 Lenham Parish Council wish to see the application REFUSED stating:-

"We wish to see the application refused as it is contrary to policies HP5, HP9, SS8 and EN1 of the Kent and Medway Structure Plan 2006 and policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and also PPS5 and PPS7.

We are concerned that this is not a sustainable development which is in the open countryside adjacent to a conservation site. There are no schools in the local vicinity and highway issues are a matter of concern as the road has a considerable amount of HGV movements per day and there is no footpath.”

3.2 Kent Highway Services raise no objections to the application with regard to the adequacy of the access and highway safety considerations.

3.3 The Environment Agency raise no objections to the application.

3.4 MBC Gypsy and Caravan Sites Officer raises no objection to the principle of gypsy accommodation on the site but has concern regarding the surrounding noise.

3.5 MBC Environmental Health Manager raises no objections but raises concern regarding the rail noise and request the submission of an acoustic survey.

4. REPRESENTATIONS

4.1 Sixteen letters of objection have been received from residents on the following grounds:-

- The site would have a harmful impact on highway safety.
- Adverse impact on the character and appearance of the countryside.
- The site is not sustainable and not served by public transport.
- There would be an undue concentration of gypsy accommodation in the area.
- The applicant has no connections with the local area.
- The site would not be appropriate for residential development and to allow it for gypsy accommodation would be discriminatory.
- The development has already taken place without planning permission.

4.2 CPRE Maidstone raises concerns regarding the application and its impact on the countryside and considers that other options should be examined.

5. SITE DESCRIPTION

5.1 The application site relates to an existing field, roughly triangular in shape and on the eastern side of Lenham Forstal Road within Lenham Parish. The site within the open countryside, although the land has no particular landscape designation either local or national. There is limited development in the surrounding area and what development there is, is sporadic.

5.2 The site is bounded by the railway line to the north, woodland and fields to the east, another field to the south beyond which is a sand quarry and Lenham Forstal Road to the west. There are no residential properties in the immediate vicinity of the application site. The nearest dwelling is 5 Forstal Cottages located

approximately 350 metres to the south of the site. It is located approximately 1.75 miles from the village of Lenham.

- 5.3 The site is predominantly grass, other than the western most area where the development has taken place. The remainder of the field to the east, which is also within the applicant's ownership is open grassland. The site is generally flat in nature and the boundaries of the site are mature hedgerows and trees that are well established and not directly affected by the proposed development. There is a pond in the south west corner of the site, however, this is not a permanent feature and is dry for much of the year.
- 5.4 The access point is towards the north west corner of the site and is onto Lenham Forstal Road.

6. PROPOSED DEVELOPMENT

- 6.1 The application is retrospective and is for the change of use of land from agriculture to residential for occupation by an extended gypsy family, including the stationing of four mobile homes and six touring caravans with four utility buildings, hardstanding and associated works. The family is the Powell family with the senior parents being Phillip and Mary Powell.
- 6.2 The development would provide for seven permanent residential pitches (four in mobile home/static caravans and three in tourers) with three additional tourers for travelling. Below I will set out the layout of site.
- Plot 1 (most northerly plot) – 1 mobile home/static for occupation by Jimmy (son of Phillip and Mary) and Maryann and 1 tourer for travelling.
 - Plot 2 – 1 mobile home/static for occupation by Phillip (son of Phillip and Mary) and Ada Hering and two children (Jimmy Dean and Sonny) and 1 tourer for travelling.
 - Plot 3 – 1 mobile home/static for occupation by Samuel Powell (son of Phillip and Mary) & Sarah Smith and four children (Johnny, Sarah Louise, Joanne, Jimmy) and 1 tourer for travelling.
 - Plot 4 (most southerly plot) – 1 mobile home/static for occupation by Philip and Mary Powell and three tourers for occupation by Neomy Powell (daughter of Phillip and Mary) and two children (Neomy and Cheri Ann); Sarah Powell (daughter of Phillip and Mary) and Moses Smith and two children (Moses and Phillip), Sarah is expecting a third child; Sherri (daughter of Phillip and Mary) and 1 child (Buddy).

- 6.3 There is no business use proposed as part of the application and this could be prevented by way of a condition.

7. CONSIDERATIONS

7.1 Gypsy Status and Need

- 7.1.1. Circular 01/2006 provides the following definition of gypsies and travellers:

"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."

- 7.1.2 Paragraphs 17 and 18 of the Circular refers to the changing patterns of employment amongst gypsies and travellers and the fact that the community has generally become more settled. The Circular states that there is a need provide sites in locations that meet the current working patterns of gypsies and travellers.

- 7.1.3 The agent for the applicant has stated that the applicants meet the definition of a gypsy. Mr Phillip Powell and his sons do general landscaping work, building work, tree lopping and general dealing as well as being horse dealers. They presently have 6 horses and 4 Shetland ponies and attend all the major horse fairs including Appleby, Barnet, Stowe, Horsemanden and a fair in the north known as Hares. In addition, they attend the relocated Southall horse auctions near Reading. Phillip and Mary Powell did live in a house in Swanley for a period of 8 years while their children were young, however, it is stated that they were unable to settle in the house and generally slept in caravans located on the drive. It is considered that the applicants meet the definition of a gypsy as set out in Circular 01/2006. The applicants do have connections with the general area, however, the lack of an identifiable local connection is not a justified reason for refusal.

- 7.1.4 *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.

- 7.1.5 There is a clear and identifiable need for gypsy accommodation within the Borough that stems from the Gypsy and Traveller Accommodation Assessment (GTAA), which was undertaken in 2005/06 and covers four local authorities – Ashford, Maidstone, Tonbridge & Malling and Tunbridge Wells. Based on this

assessment, there is a need for some 32 new pitches in the Borough over the five year period which equates to 6.4 pitches/year. The extremely low turnover of pitches on the Council sites, which is confirmed by the Council's Gypsy and Caravan Sites Officer, increases the yearly requirement by 2 to 3 pitches, meaning a yearly requirement of 8 to 10.

7.1.6 Work has begun on a gypsy DPD with consultation expected spring 2010 with adoption planned for July 2011.

7.1.7 At the time of writing this report the number of pitches allowed since 2006 is as follows:-

- 30 permanent permissions
- 9 temporary permissions
- 12 permanent with personal permissions
- 15 temporary with personal permissions

7.1.8 From the above information it is clear that there is a significant need for gypsy sites within the Borough. This need and the absence of any allocated sites is given significant weight by Inspectors when determining appeals.

7.1.9 Critically, the Council does not have any public sites available for alternative accommodation and there are no new designations for public sites. This is required by PPS3.

7.2 Visual Impact

7.2.1 The site is within the open countryside, however, there is no specific designation for the land. It is not in an Area of Outstanding Natural Beauty, Special Landscape Area or Conservation Area. There are established Local Plan policies with a presumption against most types of development including ENV28 of the Maidstone Borough-Wide Local Plan (2000).

7.2.2 However, within Circular 1/2006 it is stated that gypsy sites located in the countryside are acceptable in principle. This being the case, there is expected to be some visual impact from gypsy development.

7.2.3 The site and the caravans would be well screened from views along Lenham Forstal Road by the existing trees and hedging along the western boundary. This vegetation is extensive and mature and contains a mix of species that results in a high level of screening to the development. There would be glimpses of the development and the caravans through the trees, especially during the winter months. However, the caravans and other development could not be considered to be prominent from any public vantage points along Lenham Forstal Road. I

consider that a landscaping scheme would be appropriate to enhance the existing landscaping on the site as well as managing both the existing landscaping to be retained and the proposed landscaping for a period of 10 years.

- 7.2.4 There would be no views from any public footpaths, the nearest footpath being KH406 and located approximately 70 metres to the south west of the site on the opposite side of Lenham Forstal Road. The development would not be dominant in the landscape when travelling along the railway line by train.
- 7.2.5 It is important to note that gypsy sites do not need to be hidden from view and therefore views or glimpses of the caravans or areas of hardstanding through trees or hedges are not generally held to be prominent in the landscape and unacceptable. This is particularly the case when cases are heard by Planning Inspectors at appeal.
- 7.2.6 In terms of light pollution, one must accept the use of external lighting, although there is none proposed as part of this application, at any residential site whether a gypsy site or permanent dwelling and it is not considered that appropriate lighting would cause unacceptable harm to the area visually. However a condition restricting the use of flood lighting could be attached to any grant of permission to control this.
- 7.2.7 Without the development or residential use being prominent from any public vantage points it is considered that there is no significant demonstrable visual harm to the character and appearance of the surrounding area. In the absence of such harm, I consider that the impact on the character and appearance of the open countryside to be acceptable.

7.3 Residential Amenity

- 7.3.1 The nearest dwelling is 5 Forstal Cottages located approximately 350 metres to the south of the site. This distance is sufficient to ensure that there would be no adverse impact on the levels of amenity enjoyed by the occupiers of any nearby properties.
- 7.3.2 In terms of light pollution, it is not considered that appropriate lighting would cause unacceptable harm to the nearby properties due to the distance of separation. However, a condition restricting the use of flood lighting could be attached to any grant of permission to control this to prevent impact on the countryside.
- 7.3.3 The position of the site, essentially between the railway line and a quarry could result in significant noise disturbance to the occupiers of the site. However, this residential development is different to normal development in that the occupiers

are already in place and aware of the situation. When housing is generally permitted noise surveys are needed to protect the amenity of the future occupiers of properties who would be unaware of the potential noise from the quarry or railway line. For this reason I do not consider that a noise survey would be appropriate.

7.4 Highway Safety Considerations

- 7.4.1 The site is served by an access onto Lenham Forstal Road. The access would be located towards the north east corner of the site and would have adequate visibility. Kent Highway Services have assessed the access, its likely usage and its visibility and consider that the arrangement is adequate and would not result in a hazard to highway safety.
- 7.4.2 There would be sufficient space within the site for vehicles to enter, turn and leave in order to prevent cars from reversing onto Lenham Forstal Road.

7.5 Ecological Considerations

- 7.5.1 The site is within an area of 'intensive grassland' as categorised by the Kent Habitat Survey 2003. The trees and hedgerows around the margins of the site would be maintained and would be unaffected by the development. This would ensure that the connectivity and migratory routes would be maintained for wildlife.
- 7.5.2 I consider that a condition requiring the enhancement of landscaping within the site would be appropriate in order to supplement the existing planting along the margins. The applicant has agreed to undertake additional landscaping and I consider it to be appropriate to plug the gaps along the frontage as well as to plant a hedge along the eastern boundary of the residential portion of the site.
- 7.5.3 There is a pond identified on the ordnance survey plan. This was dried up at my site visit, however, a recent site visit revealed the pond does contain run off water. The pond is fenced off and as such would be relatively undisturbed by the development. The fact that the pond is only filled with water for part of the year means that there are no aquatic plants within it and therefore of little benefit for aquatic wildlife.
- 7.5.4 The restriction of lighting on the site would ensure that there would be no interference with the foraging habits of bats that may inhabit the surrounding wooded areas.
- 7.5.5 Overall, I do not consider that the development would cause sufficient interference with wildlife on site or in the vicinity to warrant an ecological survey.

7.6 Sustainability

- 7.6.1 In terms of sustainability, the site is located relatively close to the Rural Service Centre of Lenham. It would be approximately 1.75 miles from the edge of the village boundary by road.
- 7.6.2 Lenham village contains a doctors surgery, dentist, primary and secondary schools, post office, public house and shopping facilities. I consider that this full range of facilities within a relatively short distance provides the site with a relatively sustainable location. Furthermore, Lenham village has a train station with services direct to Maidstone and London as well as bus services that run along the A20 to Maidstone and Ashford.
- 7.6.3 Whilst the site is not within a village or immediately on the edge of a village the above facilities available within Lenham indicate that it is not an isolated site and would provide a settled base without the need for long-distance travelling as outlined at paragraph 64 of Circular 01/2006.
- 7.6.4 I do not consider that the site is in such an isolated position that would warrant refusal on sustainability grounds.

7.7 Other Considerations

- 7.7.1 Objections have been raised regarding the retrospective nature of the application. There is no difference with regard to the assessment of an application whether or not the development has occurred. The fact the application is retrospective is not a reason to refuse the application.
- 7.7.2 There are no other gypsy sites in the vicinity and the development cannot be said to overwhelm the local community.

8. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006:

Planning for Gypsy and Traveller Caravan Sites.

2. No more than ten caravans, as defined as defined in Section 24 (8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than four shall be static caravans or mobile homes) shall be stationed on the land at any one time;

Reason: In the interests of visual amenity in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

3. Permanent residential occupation shall only be permitted in seven caravans, as defined as defined in Section 24 (8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968;

Reason: In the interests of visual amenity in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

4. Within three months of the date of this permission a scheme of landscaping using indigenous species shall be submitted to and approved in writing by the Local Planning Authority which shall include a double staggered hedgerow along the eastern boundary of the residential area and the plugging of gaps in the road frontage planting and indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and 10 year management plan. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan (2000), policy C4 of the South East Plan (2009).

5. No external lighting shall be erected on the site at any time unless previously agreed in writing by the Local Planning Authority;

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-

Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

6. If the use hereby permitted ceases all caravans, structure, equipment and materials brought onto the land for the purposes, including the hardstanding and utility rooms of such use, shall be removed;

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

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 South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.