

APPLICATION: MA/09/1821 Date: 4 October 2009 Received: 7 October 2009
APPLICANT: Mr L. Smith
LOCATION: LONG LANE, LENHAM ROAD, HEADCORN, KENT, TN27 9LG
PARISH: Headcorn
PROPOSAL: Change of use of land to use as a residential caravan site for one gypsy family with 1no. caravan as shown on site plan date stamped 7 October 2009 and additional drawing no. 1106/10/1 received on 8 April 2010 as part of ecological assessment.
AGENDA DATE: 23rd September 2010
CASE OFFICER: Amanda Marks

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

- It is contrary to views expressed by the Parish Council

1.POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, ENV46
Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 01/2006

2.HISTORY

1991 Enforcement history relating to the removal of an agricultural building, caravan in residential use and the access track.

3.CONULTATIONS

3.1 Headcorn Parish Council: request the application be refused for the following reasons:

"1.The site is within the Wealden Special Landscape Area and so is valued for its countryside landscape, and therefore the placement of another caravan and ancillary buildings would be harmful to the countryside. It is clearly visible from Southernden Road and the public footpath at the rear of the site. The Parish Council notes that there is already and additional occupied caravan on site that does not form part of this planning application.

2. This application will result in a further consolidation of development in the Lenham Road which effectively creates a ribbon development along the Lenham Road. There is now a very high proportion of gypsy pitches along the Lenham Road which outweighs the number of settled residential properties, this domination must cease. Section 54 Sustainability of Rural Sites "Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on the local infrastructure". It must be noted that the plan does not show that there are approximately 11 other caravans/mobiles on sites immediately between this site and the road i.e Oak Tree Farm, Greengates and Two Acers and that there are a further two sites including at least 2 mobiles and a touring van plus a dayroom on the other side of the road.

3. The location of the development is not well served by public transport and is not located to provide a choice of other means of transport to other facilities without the use of the motor car."

3.2 Ulcombe Parish Council (neighbouring parish): wish to see the application refused "because the development site is outside the village envelope and is in the open countryside. The site, being some 2 miles from Headcorn village, is unsustainable for non-car owners as it is not on a bus route to enable residents access to essential services. There is already a disproportionately high number of traveller sites in relation to the settled population of the surrounding area and approval of this application would formally establish further intensification of the use of the land for this purpose."

3.3 Natural England: no objections to the ecological survey.

3.4 KWT: no comment to consultation on the ecological survey.

3.5 Environment Agency: verbal confirmation with the case officer that they had no interest in the application

4. REPRESENTATIONS two neighbour letters have been received raising the following objections:

- Two caravans on site not one
- Intrusive and unwelcome in its position – raises concerns over privacy and security
- Concern over impact on expensive livestock; pollution into water ditches

5. CONSIDERATIONS

5.1 Site Description

- 5.1.1 This is a part retrospective application for a site which has had a gypsy touring caravan on it for approximately 6 months. Prior to this aerial photographs held within the Council together with planning enforcement history shows that there has been a caravan on the site in the past and for a period seemingly in excess of 10 years. No Certificates of Lawfulness have ever been applied for, although it is not apparent what periods of break there may have been. The applicant, Mr Lee Smith and his family are not yet living on the site. Mrs Lee has recently had a baby (6 weeks old) and the family and staying with parents, they are due to return to their site soon. Presently stationed on the site are one unoccupied touring caravan; a utility shed; 3 cars (1 of which is under cover on a low loader); a horse box; and two trucks. Family members live on adjacent land to the west of the application site at 'Greengates'.
- 5.1.2 The application site lies in the open countryside, on the eastern side of Lenham Road and approximately 2km to the north-east of Headcorn village. The site falls within the designated Wealden Special Landscape Area and is accessed off the private road of Long Lane. The site lies within Headcorn Parish, with Ulcombe Parish located on the western side of Lenham Road in this location. The existing development is located at the end of Long Lane – a gravelled/compressed soil access track within an area of land approximately 0.1 hectare. The site is not readily visible from Lenham Road, with distant views from the Southernden Road at approximately 450m to the north. The site access track is on the eastern side of Lenham Road and is approximately 160m in length before the site of the caravan is reached.
- 5.1.3 The existing western boundary treatment consists of hawthorn hedgerow which is approximately 5m in height together with four mature oak trees of approximately 20m in height. The northern boundary has young oak and hawthorn hedgerow. The eastern boundary has limited screening and none at all in parts. It comprises stock proof fencing with thin hedging in parts. There are two ditches, one to the south of the access track and one to the west. These have been observed flowing.
- 5.1.4 At the time of the most recent site visit (20/8/10) there was one touring caravan on site. There have been reports of two caravans on site, but this has not been the case at the time of officer site visits.

5.1.5 The closest residential boundary is that adjoining Newcombe Farm. There is a distance of approximately 250m from the Farmhouse to the application site as the crow flies. Other nearby sites are occupied by travellers fronting Lenham Road on the east side, namely: Greengates, Acers Place and Little Oaks.

5.2 Proposal

The current application seeks planning permission for the change of use from agriculture to a traveller site for a family with two children and one child on the way. Permission is sought for the stationing of one caravan. To date there has been a touring caravan on site, although this would be inadequate as permanent residential accommodation for a family. It is my understanding that this will be replaced with a mobile should permission be granted. Since the application was originally submitted, a small timber utility building has also been erected on site. I have treated this building as part of the application. It is approximately 3m wide x 2.2m high.

5.2 Principle of Development

5.2.1 Development in the countryside is restricted by the terms of Development Plan Policy and Central Government Guidance. With the demise of The South East Plan 2009, the Development Plan now simply involves the 'saved' policies of The Maidstone Borough-Wide Local Plan 2000. The Local Plan has policies aimed at the protection of the countryside, and particularly the Special Landscape Area, but no longer has a policy that gives direct guidance on the provision of gypsy sites.

5.2.2 The main 'tool' for the determination of applications is therefore Central Government Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites'. This being said Central Government Officer Eric Pickles has advised that this circular is to be abolished, but as yet no time scale is given nor indication of when a replacement may be introduced. The circular at present places a firm emphasis on the provision of more sites in order to satisfy the needs of gypsy families stating that rural settings, where not subject to special planning constraints, are acceptable in principle. Whilst acknowledging the importance of nationally recognised designations, the circular states that local landscape importance and local conservation designations should not be used in themselves to refuse planning permission for gypsy and traveller sites.

5.2.3 I am satisfied that Mr Smith and family fall within the definition of gypsies in Circular 01/2006. Mr Smith works in the landscape business and travels for the purposes of his work. Previously there has been an identifiable need for gypsy accommodation within the Borough that stemmed from the findings of the Gypsy and Traveller Accommodation Assessment (GTAA). Based on this assessment, there was a need for some 32 new pitches to be provided in the Borough over

the five year period. This figure assumed a higher rate of turnover on public sites than has actually occurred.

5.2.4 The Council is preparing a Gypsy and Traveller Sites DPD which will allocate specific sites. With the revocation of The South East Plan, the Borough target for the number of pitches to be provided will be set in the Core Strategy. As a direct consequence, the DPD must be prepared in parallel with the Core Strategy, or marginally behind it, and not in advance of it as previously programmed.

5.2.5 At the time of writing this report the number of private pitches allowed since 31 March 2006 is as follows:-

- 33 permanent permissions
- 8 temporary permissions
- 10 permanent with personal permissions
- 14 temporary with personal permissions

5.2.6 The above figures show that in fact, 33 permanent permissions have already been granted for the five year period to date. This application would take the number to 34 if permanent permission was granted. There is also an application on these papers for 7 pitches at 'Wheatgratten'. The Authority has therefore met the identified need for the period 2006-2011. However, at appeals Inspectors have previously placed significant weight on the inadequacy of the public site provision (no additional provision has been made in the relevant period) and the high number of unauthorised caravans in the Borough. For example, in the Part Norham Farm appeal decision the Inspector recognised that the number of permission granted was broadly in accord with the GTAA requirements but placed considerable weight on what he saw as the significant number of unauthorised caravans within the Borough, whilst decisions at Symonds Lane, Yalding focused on the inadequacy of public provision as an alternative means of accommodation. Taking into account the appeal decisions and balancing these against the target that has now been met, it is necessary to consider whether there are other issues that would suggest planning permission should be granted, and whether either a permanent or temporary permission is appropriate. Whilst I do not consider that there is an overriding need case there are elements of need to be considered.

5.2.7 The question of whether there is further need beyond 2011 and if so at what level, is being considered through the DPD process. As mentioned, a grant of permission in this case would mean that the overall figure would rise to 34 ie a figure ahead of schedule in the GTAA requirement. The general need as

identified has been met, it is a question of whether there is a personal need for this site as gypsy accommodation.

5.3 Visual Impact

5.4.1 The application site lies in the open countryside, outside a defined settlement and within a designated Special Landscape Area. The access leading to the site is visible off Lenham Road when stood directly in front of the entrance and clear views are afforded from adjoining land belonging to Necombe Farm. The access track is aligned on the southern boundary by deciduous hedgerow which obscures views when approaching from the south. On the northern boundary approximately half the length of the track is aligned by close board fencing which defines the boundary of Greengates gypsy site and the remainder of the boundary is post and rail. Due to the presence of the other gypsy sites and boundary treatment views of the access track are also limited when approaching from the north. The access track was subject to an enforcement notice in 1991 and should have been removed. Aerial photographs on the Council's GIS show the track to have been there for a number of years; it is possible that this was never removed.

From Lenham Road and Long Lane itself, it is not apparent that there is a caravan site at the eastern end of the land. The prominent view is of Greengates, another gypsy site on the frontage of Lenham Road. This is largely due to the abundant level of deciduous screening on the western boundary together with a stable block in the adjoining field to the west. On the eastern site boundary there is stock proof fencing with no planting and open views across the land where cattle graze that I believe belongs to Newcombe Farm. The site tapers at the northern end, where there is no landscaping – this can be rectified by condition. Views of the northern end of the site are limited to being from Southern Road at 450m distance away.

5.4.2 The site can be seen from Southernden Road, but it is not apparent what the use of the site is. At a distance of approximately 450m it is possible to make out a patch of 'blue' – this is the blue tarpaulin that covers the car on the low loader. The site is not therefore prominent in the landscape – simply it can be seen from distant views or within private land. As previously stated, there is scope for additional landscaping on the applicant's eastern and northern boundary which would mitigate the views from this angle.

5.4.3 Looking along Lenham Road from either direction, the site is obscured by other gypsy sites, distance and screening. Coming from Headcorn there is roadside hedging and trees of approximately 4m high which obscures views of the site; it is just possible to make out the stable block on the adjoining land. Travelling from the opposite direction, the site is shielded by views of the aforementioned caravan sites.

- 5.4.5 In considering this application, I have had regard to the refusal of planning permission on the site known as 'Little Oak Farm' which fronts the east side of Lenham Road. This application was refused on visual impact grounds and also when considered cumulatively with the other sites fronting Lenham Road. There is also an injunction ongoing on the site 'The Meadows' which is a substantial site on the west side of Lenham Road. I do not consider the site to be visually intrusive in the countryside, or detrimental to the character of the Wealden SLA. Whilst there are views from private land adjoining the site, I am satisfied that from public vantage points the site is largely well screened or distant.
- 5.4.6 The character of this section of Lenham Road is influenced due to the number of sites that can be seen. This site does not worsen the situation as, unlike the other sites, its visual impact is not seen from Lenham Road.

5.4 Residential Amenity

- 5.4.1 The development is located a considerable distance from the nearest residential building, the closest being approximately 250m away. As discussed the boundary treatment can be improved to the east of the site to help mitigate visual impact from the adjoining field. I would not wish to see an urban fence erected on this boundary, but with improvement to landscaping/boundary treatment then this may put the resident's fears to rest with regard to security issues.
- 5.4.2 It has been suggested that vehicles accessing the site cause light pollution at unsociable hours. However, given the considerable distances from this site to others nearby I do not consider that there could be significant adverse impact either visually or in terms of the noise and activity.

5.5 Highways

- 5.5.1 The site is accessed from an existing point off Lenham Road, which also serves Greengates. I do not consider the minimal additional traffic movements associated with the continued use of this site to be of significant harm to the locality. There is an access gate set back from Lenham Road, there is adequate room to drive a vehicle off the road before opening these gates. There are no highway safety issues with this application.

5.6 Sustainability

- 5.6.1 Circular 01/2006 paragraph 64 sets out the sustainability criteria which should be considered as part of the application process, in summary:
- Co-existence between the site and local community;

- Wider benefits of access to GP and other health services;
- Children attending school regularly;
- A settled base reducing the need for long distance travel & associated unauthorised camping;
- Not locating sites in areas at high risk of flooding.

5.7.2 The site is approximately 2km from Headcorn Village and due to distance and lack of public footpaths realistically a car is required for trips into the village. The proximity to the village does however mean that the applicant and his family are able to make use of the health facilities, goods and services. The children are pre-school age and therefore not currently attending the village school.

5.7.3 Clearly the site does allow a settled base for the applicant and his family, potential to integrate with the local community whilst still allowing him to travel should he wish. Flooding is not an issue in this location.

5.7 Ecology

5.8.1 As the site lies within 500m of a pond (to the east) an ecological survey was requested. The survey revealed that the site itself has very low ecological value, due to hardcore being in place for in excess of 10 years. The surrounding hedgerows have fairly good wildlife value and the ditches are too fast flowing to support amphibians. The recommendation is to plant a hedgerow on the eastern boundary.

5.8.2 Natural England and Kent Wildlife Trust have been approached for their comments and neither have any interest in the application due to its small scale and siting in an area where they consider there to be no ecological issues of importance. Similarly, the ditches are located outside the application site and the Environment Agency have confirmed they have no interest in the application.

5.8 Other matters

5.9 The personal case put forward for this applicant is his connection to family in the locality. Mr Smith's uncle lives at Greengates which is adjacent to this site and his eldest daughter is enrolled to start at the local infant school from January 2011.

5.10 The enforcement history relating to this site has been referred to by objectors. In 1991 two enforcement notices were served, one required the removal of a large agricultural shed and a caravan; the other required the removal of the access track that had been created. Both cases were upheld on appeal. The agricultural building was taken down and the caravan removed; however it

appears that the access track was never properly removed and quickly the use of the track became reinstated.

- 5.11 It has been suggested by residents that to grant permission for this proposal would contravene previous action taken by the Borough Council. In short, this is a different proposal as it is to provide accommodation for a gypsy family. The previous case was assessed under relevant agricultural policies at that time. Furthermore, the case was some 20 years ago and policies have moved on.

5.11 Conclusion

I consider that the determination of this application is focused on the level of harm to the character and appearance of the countryside when balanced against the ongoing need to provide accommodation for gypsies. As explored in my report, I consider harm to the countryside to be limited and on balance, I recommend that permission be granted for a temporary period of a further 3 years.

RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The occupation of the site hereby permitted shall be carried on only by Mr Lee Smith and his wife and children and shall be for a limited period of three years from the date of this decision, or the period during which the site is occupied by them, whichever is the shorter.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to reflect the personal circumstances of the named person and to enable the situation to be reviewed upon publication of the Local Development Framework Gypsy & Traveller DPD, in accordance with Maidstone Borough-Wide Local Plan 2000 Policy ENV28.

2. No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for habitation purposes, shall be stationed on the land at any one time.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

3. No plant machinery or equipment, including any mobile electricity generator, shall be operated on the site unless it has been installed and maintained in a way which will minimise transmission of noise and/or vibration beyond the boundaries of the

site in accordance with a scheme approved in writing by the local planning authority.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

4. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

5. Within 3 months of the date of this permission a scheme of landscaping including a double staggered hawthorn hedgerow along the northern and eastern boundaries of the site, and new species of Oak at standard size together with a programme for the approved scheme's implementation and long term management shall be submitted to and approved in writing by the local planning authority. 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 and in the interests of visual amenity. This is in accordance with Policy ENV34 of the Maidstone Borough-Wide Local Plan 2000.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; 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 a satisfactory setting and external appearance to the development pursuant to Policy ENV34 of the Maidstone Borough-Wide Local Plan 2000.

7. Within 1 month of the date of this permission full details of foul and surface drainage shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approve

details;

Reason: In the interests of proper drainage and in accordance with Policy ENV28 of The Maidstone Borough Wide Local Plan 2000.

8. No external lighting shall be installed 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 ENV34 of the Maidstone Borough-Wide Local Plan 2000.

9. If the use hereby permitted ceases, all caravans, structures, equipment and materials brought onto the land for the purposes hereby permitted including hardstandings and utility rooms shall be removed;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV34 of The Maidstone Borough-Wide Local Plan 2000.

Informatives set out below

Any watercourse within the boundary of the site would be classified as an ordinary watercourse and would not be maintained by the Agency or by an Internal Drainage Board. In the absence of any express agreement to the contrary, maintenance is the responsibility of the riparian owners. Any culvert, diversion, dam or like obstruction to the flow of the watercourse requires the consent of the Agency and/or Internal Drainage Board, under the Land Drainage Act 1991. For nature conservation reasons, the Agency seeks to avoid culverting and will not normally consent such works except for access.

The applicant is advised that, if they have not already done so, 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 being granted. Failure to do so could result in action by council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Health Project 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 there are no overriding material considerations to indicate a refusal of planning consent.