

APPLICATION: MA/10/1595 Date: 12 September 2010 Received: 15 September 2010

APPLICANT: Mr A Webster

LOCATION: ASHTREE PLACE, HAMPSTEAD LANE, NETTLESTEAD, MAIDSTONE, KENT, ME18 5HN

PARISH: Nettlestead

PROPOSAL: Variation of conditions 1 & 3 of Planning Permission MA/05/0941 (Change of use from agricultural to residential land, as gypsy site for stationing of 3 static caravans & 1 touring caravan & associated hard standings) to include additional occupants and to allow use of the site on a permanent basis.

AGENDA DATE: 7 April 2011

CASE OFFICER: Geoff Brown

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

- Councillor Nelson-Gracie has requested committee consideration for the following reasons:-
 - "The application site is located in Metropolitan Green Belt, the only area with this high designation in the Borough, and should be maintained as such
 - The area floods almost annually, particularly in Hampstead Lane, thereby endangering the occupants of the site or placing the emergency services at unacceptable risk should a rescue attempt be considered
 - There is no flood risk assessment apart from some general comments in the design and access statement
 - The location is remote from shops and other services (apart from Yalding station) requiring considerable use of the car for most activities
 - There is danger of an undue concentration of sites in the area"
- In the event that permission is recommended I would appreciate you including the following conditions:-
- The occupants should be registered with the EA Flood Warning arrangements and included on the local flood warning list for emergency contact

- The landscaping should be thickened up to screen the site from the road and break up the urbanising effect of the formal fencing currently in place. This should be effected using indigenous species, preferably not laurel bushes
- There should be no commercial activity conducted from the site
- No building materials, road planings, excess garden waste or other infill material should be stored on the site
- No floodlighting, apart from low level, timed security lighting should be used on the site
- The number of caravans should be limited to three static caravans (for Mrs Lorraine Storey and children, Mr Alfie Webster and children and Ms Alice Webster and children)“

1. POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV30

The South East Plan 2009: CC1, CC6, C4, SP5, H4, NRM4

Village Design Statement: N/A

Government Policy: PPS1, PPG2, PPS3, PPS7, PPS25, Circular 1/2006

2. HISTORY

- MA/05/0941: Change of use from agricultural to residential land, as gypsy site for stationing of 3 static caravans & 1 touring caravan & associated hard standings: Personal and temporary permission granted for a period of 5 years
- MA/04/0288: Change of use of land for the stationing of three static caravans, one touring caravan and associated works: Refused
- MA/02/0773: Change of use of land for the stationing of two caravans/mobile homes and erection of a utility building for use between March-September each year: Refused and dismissed on appeal
- MA/00/1842: Change of use for the stationing of two gypsy caravans: Refused and dismissed on appeal

3. CONSULTATIONS

3.1 I have received no views from **Nettlestead Parish Council**.

3.2 **The Environment Agency** has no objection on the basis that previously expressed requirements as to the formation of a dry access route and compensatory flood storage have been carried out.

3.3 **Southern Water** has no objection.

4. REPRESENTATIONS

4.1 **One letter of objection has been received from a local resident** on the following grounds:-

- a) The planning permission that was granted to the applicant (now deceased) was temporary and granted on the basis of the personal circumstances of the family. Those specific circumstances no longer apply, the consent has expired and the site should have been restored to its previous condition.
- b) This is Green Belt land and there is an expectation that it should remain free of mobile homes, etc.
- c) The risk of flooding to neighbouring properties is increased by the hardstandings involved in this development.
- d) The credibility of the planning system would be undermined by allowing this development.

4.2 **CPRE Kent** points to the location being in the Green Belt and in the floodplain and objects to the proposals for a permanent settlement but recognises that a further temporary consent may be appropriate.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The land the subject of this application is located in a rural location off the south side of Hampstead Lane. This is relatively flat land within The Metropolitan Green Belt, the site is on land identified as liable to flooding. The site is approximately 0.9 hectares in area around 1.5km to the west of Yalding village and approx. 200m west of the Paddock Wood- Maidstone railway line.

5.1.2 In broad terms the access point from Hampstead Lane is located between Catchment Cottages (to the east) and another traveller site to the west (Three Acres). The access track is of road planings with a grass verge and leads south, passing a small grassed paddock to the east, whilst to the west is a separate track servicing fields to the south. The access track the subject of this application is approx. 100m long and leads to the caravan site permitted under permission MA/05/0941.

5.1.3 The site currently accommodates two mobile homes side by side at the north end of the site and a touring caravan located a short distance to the south. These are served by hardstandings and short stretches of access tracks. The remaining area to the south of this group of caravans remains as a grassed field

with a field boundary hedge down the western side and an area of woodland beyond the southern boundary.

5.2 Proposal

- 5.2.1 Planning permission MA/05/0941 was a temporary permission for a gypsy caravan site for 3 static caravans and one tourer. The permission expired on 23 September 2010 (as set out in condition 3 of the permission) and this current application seeks a permanent permission, although the application states that a temporary consent would be acceptable if a permanent consent were found to be inappropriate and a minimum of 4 years is suggested.
- 5.2.2 The permission was also 'personal': condition 1 restricted occupation to Mrs Sarah Webster, Mr Alfie Webster and Mrs Lorraine Storey, their partners and their dependent children. Family circumstances have now changed: Alfie Webster and Lorraine Storey (brother and sister) continue to live on the site with their immediate families but the Mrs Sarah Webster mentioned in the condition has died. It is proposed to vary condition 1 to allow another sister (Alice Webster) and her three children to occupy the site (effectively in place of the Mrs Sarah Webster stated in the MA/05/0941 permission).
- 5.2.3 No other variation is proposed to the terms of MA/05/0941 and the other conditions imposed at that approval remain in force.

5.3 Principle of Development

- 5.3.1 There are no saved Local Plan policies that relate 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. 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. The site is located in the Metropolitan Green Belt and the Circular states that "New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2). Alternatives should be explored before Green Belt locations are considered. Pressure for development of sites on Green Belt land can usually be avoided if the local planning authority allocates sufficient sites elsewhere in its area, in its LDF, to meet identified need."

5.3.7 The site was accepted for temporary permission in 2005 when it was considered that the Gypsy status, medical and educational needs demonstrated by the applicant and her family represent special circumstances to allow the development as a departure from the Development Plan and resulted in temporary permission being granted for MA/05/0941 for a period of five years.

5.3.8 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. A separate pitch allocation DPD is proposed but the Core Strategy target will need to be adopted before this DPD. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites. The planned adoption date for the Core Strategy is September 2012 with the DPD expected to follow in 2013.

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, albeit that the Green Belt is not a favoured location.

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 The Council has previously accepted the gypsy status of the Webster family. Mrs Webster Senior has now passed away, to be replaced on site by Alice Webster. Alice Webster was included in previous applications and was sharing her mother's caravan when the site was first occupied in 2003. She was not named on the 2005 permission as she was living in housing at the time with a new baby (as there were limited services on the Hampstead Lane site). She is finding it very difficult to settle in housing but can not risk to give this up until she is authorised to live on the site. I am satisfied that the proposed occupants are gypsies as defined. There are 11 children living on the site and many are enrolled and attend local schools, including East Peckham Primary School. There are no particular health issues with any of the proposed occupants.

5.5 Need for Gypsy Sites

5.5.1 Clearly there is a requirement for the Council to provide gypsy accommodation and this is set out in Government Guidance in both PPS3 and in Circular 01/2006. To ensure that the Council provides adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

5.5.2 The GTAA concluded that there was a need for gypsy accommodation and quantified that with a figure of 32 new pitches for Maidstone over the five year period from April 2006 to April 2011.

5.5.3 However, the pitch requirement revealed in the GTAA assumes that 6 pitches on local authority owned sites across the four authority areas will become available each year through genuine vacancy. For Maidstone Borough, this would assume that 3 pitches/year would become available on the two sites the Council owns totalling 15 pitches over the five years. In fact only 3 genuine vacancies have occurred since April 2006. In such circumstances the overall pitch requirement becomes 44 pitches for the whole 5 year period.

5.5.4 The South East Plan, which has a draft policy (H7) that was examined in public with a subsequent draft report, was to set provision for Maidstone. The report is in draft form and incomplete and clearly lacks the status of a policy document so I attach it little weight. Bearing in mind the Government's clear intention to remove Regional Plans, I attach no weight to the draft regional provision numbers.

5.5.5 Since April 2006 the following permissions for pitches have been granted (net):

41 Permanent non-personal permissions

14 Permanent personal permissions

8 Temporary non-personal permissions

26 Temporary personal permissions

A net total of 55 permanent planning permissions have been granted since April 2006.

5.5.6 The Council has agreed its local pitch requirement for the period 2006 to 2016 for inclusion in the Core Strategy as 71 pitches. A separate pitch allocation DPD is proposed but the Core Strategy target will need to be adopted before this DPD can be completed. The Core Strategy will also contain a gypsy and traveller criteria-based policy to assess any windfall sites.

5.5.7 In terms of unauthorised pitches, based on the January 2011 count and according to the Council's database at the time of writing this report, there are 86 unauthorised mobile homes and 69 touring caravans. However, 28 of these mobile homes are 'tolerated' at a large site known as Plumtree Bottom in Stockbury. Here 15 sites were served enforcement notices in 1999 which in effect allow a set number of mobile homes on each plot (total of 34). As such, I consider the number of unauthorised mobile homes is 58.

5.5.8 The level of unauthorised mobiles is an indication of general need, however, I do not consider this to be overriding.

5.6 Personal Circumstances

5.6.1 In considering the previous application MA/05/0941 the Council gave significant weight to the medical problems of Mrs Sarah Webster who has now died. However, the personal circumstances of the intended occupiers are again put forward as a justification for granting planning permission. I understand that there are 8 children living on site and Alice Webster's occupation would add a

further 3. Children attend or have attended local schools, for example Charlotte attends secondary school in Paddock Wood and her brother Joe has recently completed his secondary education there. There are no pressing medical issues but Lorraine Storey is on medication and requires regular check ups for depressive illness.

5.6.2 In this assessment I give the health considerations of the occupants limited weight. However, the 11 children on the site would benefit from a settled base in order to progress their education. In particular the 8 children on the site have established this site as their base over the last five years in order to enter or progress within the education system. This combined with the lack of an alternative site being available for the occupants at the moment leads me to give the personal circumstances and need of the applicants weight in the determination of this application.

5.7 Visual Impact of Development

5.7.1 A key issue to consider is whether the development has an adverse impact on the character of the area and on the openness of the Green Belt.

5.7.2 Hampstead Lane is a rural lane set in the open countryside. The site is within the Green Belt. Clearly this is a sensitive site given that development of this nature should only be accepted in exceptional circumstances.

5.7.3 In my view the site is reasonably unobtrusive and has a limited impact on the openness of the Green Belt. This is largely because the mobile homes are not located on the road frontage of Hampstead Lane, in contrast to the neighbouring Catchment Cottages and the mobile home at Three Acres.

5.7.4 The mobile homes are located a significant distance away from Hampstead Lane (distances vary but the nearest are approx. 70m away) and are screened by the development and paraphernalia associated with the neighbouring sites mentioned above. Views from the road are interrupted by the roadside hedge and other intervening boundary treatments such that it is only the roof of the main mobile that is readily apparent. Away from the road, in views from the south, I note the presence of Public Footpath KM186 running along the line of trees at the site boundary but views are distant and the site is seen against a backdrop of pre-existing development.

5.7.5 In summary, there are no long or medium distance views of the site due to the topography of the surrounding area or the screening by other development where the development would appear dominant. As such the development would not cause significant visual harm to the countryside or the openness of the Green Belt. The views from the footpath to the south do result in some visual harm. Previously, the visual harm was not considered sufficient to warrant

refusal and the personal circumstances of the applicants were sufficient to justify a temporary permission for a period of five years. In view of the fact that in the 5 years that the applicants have been on site there has been no progress in terms of an allocation DPD or criteria based policy I feel that the personal circumstances of the applicants in particular the education needs of the children and the lack of alternative sites outweigh the harm to the countryside and Green Belt and would consider a temporary personal permission for a two year period to be appropriate.

5.7.6 In addition to these factors I note that the access track and the eastern site boundary has been pleasantly landscaped with the planting of trees, whilst the site is very neat and tidy with a minimum of outbuildings and clutter. Post and rail fencing has been used along the access track which is preferable to the close boarded fencing on the adjacent site.

5.8 Flood Risk

5.8.1 The Environment Agency has been consulted on this application and raises no objection. The Agency point out that the site is not within the Flood Zone 3 (which indicates areas considered to be at high risk of flooding) but could still be at some risk as a result of climate change and flooding from highway/surface water. Previously required works (under the terms of MA/05/0941) to achieve a dry access route and compensatory flood storage have been carried out. I conclude that there is no reason to refuse this application on flooding related issues, although I recommend an informative re the Agency's Flood Warning Service.

5.9 Residential Amenity

5.9.1 I do not consider the site causes any significant loss of amenity to any neighbours. I estimate that the nearest mobile home is approx. 40m from the rear elevations of Catchment Cottages and separated from the gardens of those dwellings by established hedging.

5.10 Other Matters

5.10.1 I have assessed this application against Natural England's standing advice and the site involves closely cropped grassland with caravans on hardstandings with access tracks, small sheds and domestic paraphernalia and I regard the site as of low potential value in terms of ecology given that this application seeks to retain the development that was approved in 2005. An ecological report was not required previously and I see no need for one now given the condition of the site. In my view the site is already well landscaped and there is no need for further planting.

5.11.2 No objection was raised previously on highways grounds and I have no objection on those issues now given that the number of caravans is not proposed to change here. On the issue of sustainability, it is unrealistic to assume that all such development will locate in or adjacent to settlements and I do not consider that this site is so detached from basic services and public transport as to be an unsustainable site for gypsy caravans: as stated above the site is approx. 1.5km from Yalding village.

6. CONCLUSION

- 6.1 A balance needs to be drawn between two conflicting planning issues here.
- 6.2 As stated above I consider this small, well maintained site is not prominent in the landscape and causes limited harm to the countryside. I am not convinced that this site combined with Three Ashes next door amounts to an overdue concentration of caravans. Nevertheless this land is part of the Green Belt and the development contributes to the erosion, albeit small scale, of its openness. Gypsy caravan sites are normally regarded as inappropriate development in the Green Belt and I do not consider that a permanent permission would be appropriate due to this fundamental harm.
- 6.3 This harm needs to be balanced against the significant need to provide new sites which, coupled with the lack of progress on the GTAA, Site Allocations DPD, etc. lead the Inspector to grant a two year consent at The Meadows, Lenham Road, Headcorn.
- 6.4 Circular 01/2006 advises that local planning authorities should give consideration to granting temporary permissions if there is an unmet need but no available alternative gypsy and traveller site provision in an area but an expectation that sites will become available. It states that substantial weight should be given to the unmet need in considering whether a temporary permission is justified. In all I consider the appropriate balance here is to allow a temporary permission for two years on the basis that, at the end of that period, substantial progress should have been made in terms of the Council providing new sites or allocating suitable alternative sites. I have given weight to the personal circumstances put forward here and recommend that the personal permission be retained with the names amended to those stated.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on only by Mrs Alice Webster, Mr Alfie Webster and Mrs Lorraine Storey, their partners and their dependant children only.

Reason: Because of the special circumstances demonstrated and to restrict occupation of the site in accordance with Policies ENV28 and ENV30 of the Maidstone Borough-Wide Local Plan 2000.

2. Within 2 years from the date of this permission, or when the premises cease to be occupied by the persons identified in condition 1 above (whichever is sooner), the use hereby permitted shall cease and the caravans, and all other materials and equipment brought onto the premises in connection with the use shall be removed. The land shall then be restored to its former condition on or before a date not later than three months following the vacation of the site, in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

Reason: Permission has been granted on a temporary basis in recognition of the overriding need to provide sites for gypsies in the short term and to reflect the personal circumstances demonstrated in the application. A temporary condition is necessary to protect the character and appearance of the countryside and openness of the Green Belt in accordance with policies ENV28 and ENV30 of the Maidstone Borough-Wide Local Plan 2000.

Informatives set out below

The occupants of the site are advised to register with The Environment Agency's Flood Warning Service. The Floodline is 0845 9881188.

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.