

APPLICATION: MA/10/0157 Date: 29 January 2010 Received: 20 January 2012

APPLICANT: Mrs L Lewis

LOCATION: LAND EAST OF MAPLEHURST LANE, FRITTENDEN ROAD,
STAPLEHURST, TONBRIDGE, KENT, TN12 0DL

PARISH: Staplehurst

PROPOSAL: Change of use of land to mixed use for residential with the stationing of 1 static caravan and 1 touring caravan, utility building, laying of hard surfacing, cess pool and erection of close boarded fencing and change of use of land for the keeping of horses with field shelter as shown on A4 'Proposed Utility Block Plan' received on 3rd February 2010, drawing nos. 1114/10/1 and 1114/10/2 received on 11th June 2010 and A4 site location plan received on 16th June 2010.

AGENDA DATE: 8th March 2012

CASE OFFICER: Richard Timms

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: ENV28, ENV34, ENV46
- The South East Plan 2009: CC6, H4, C4, NRM5
- Government Policy: PPS1, PPS3, PPS4, PPS7, PPS9
- Circular 01/2006: Planning for Gypsy & Traveller Caravan Sites

2. HISTORY

MA/09/1565 Change of use of land for the stationing of 2 caravans for residential purposes and utility shed with associated works i.e. hardstanding and septic tank – WITHDRAWN

3. CONSULTATIONS

- 3.1 **Staplehurst Parish Council** wishes to see the application REFUSED and request that the application is reported to Planning Committee.

"After much discussion Councillors unanimously recommended REFUSAL because the site was considered unsuitable for residential use due to being sited in an area which suffered flooding, had very poor access and there was no confirmation of gypsy status... that the ecology of the area was important and flooding issues remained of concern, the access road was in very poor condition; the close-boarded fence already erected detracted from the open landscape of this area and had an unwelcome urbanising effect on the Low Weald Special Landscape Area; sound of generator, validity of health problems of applicant, lack of services."

3.2 KCC Biodiversity Projects Officer: No objections

"Under Natural England's Standing Advice, several ecological features within or adjacent to this site trigger the need for protected species surveys. We have reviewed aerial photographs, OS maps and ecological data sets that we hold to assess whether, in our professional opinion, further surveys are necessary and would assist Maidstone Borough Council in considering all relevant material considerations in the determination of this application."

While it is difficult to definitively confirm that there was minimal ecological interest on the development footprint prior to the works taking place, we are able to make a reasoned judgement based on our experience and the data sets that we hold.

We consider that the development works are unlikely to have had a negative impact on protected species and that, while there is potential for protected species presence in the general area, when gauged against the guidance for planning authorities to only require protected species surveys to be undertaken when there is "a reasonable likelihood of the species being present and affected by the development" (Paragraph 99, Government Circular Biodiversity and Geological Conservation), our advice is that no protected species surveys are required to inform the determination of this application.

Enhancements

The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it.

The hedgerow proposed in Tom La Dell's note and plan would provide some biodiversity enhancement. It would be of greater benefit if there was a more diverse mix of native species (e.g. including field maple and hazel). Another potential enhancement would be to ensure that buffer zones around the wider field are not grazed throughout the year; this would encourage greater structural diversity of vegetation and improve the overall site for wildlife."

3.3 Kent Highway Services: No objections

3.4 Environment Agency: No objections

"We have taken into consideration the above application and we have no objection to the proposal but wish to make the following comments."

There are no environmental constraints at this site so the applications falls out of the environment agencies remit, however we would like to take the opportunity to comment of the proposed disposal of Foul and Surface water.

Foul

Septic tank

The application form states that foul drainage is proposed to be discharged to a septic tank. Under the terms of the Water Resources Act 1991, written approval of the Environment Agency is required for any discharge of sewage or trade effluent into controlled waters, and may be required for any discharge of sewage or trade effluent from buildings or fixed plant into or onto the ground or into waters which are not controlled waters.

Surface Water

Watercourse

It is proposed that the Surface Water will be disposed of via an existing Watercourse. 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, weir, 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 to such works except for access.

Soakaways

It is not stated on the application form whether the proposed soakaway is a new or existing system. If new, then generally the Agency would expect infiltration rates for soakaways to be based on permeability tests undertaken over the winter period and not those done during the drier months. The design needs to be based upon BS6297:1983 (relating to soakage testing) and BRE Digest 365: Soakaway Design. The local geological and hydrogeological characteristics of the site will dictate whether soakaways will be applicable and an investigation would be required. Your Council's own engineers should be satisfied with the proposed method of surface water disposal."

- 3.5 Environmental Health Manager:** No objections subject to the generator described in the submission being used and it is housed within an enclosed area.

"Information has been recently submitted in relation to a query concerning the siting of a portable generator and the noise it would produce. However, no acoustic information was supplied, just the model and electrical details and output. Despite this, it would appear to be a small generator whose likely impact would be small despite this quiet rural location. This impact would be reduced further, especially if it was housed in an enclosure, e.g. in the utility room marked on the plans for the site."

3.6 **Natural England:** No objections.

4. **REPRESENTATIONS**

4.1 15 neighbour representations have been received raising the following objections summarised as follows:

- Objection based on the state of the private roadway which cannot take the constant increase in traffic without the need for either adoption or major and costly repairs.
- Unacceptable level of traffic generation.
- The Council is put 'on notice' that compensation will be sought on behalf of one resident for damage and the necessary repairs on Maplehurst Lane.
- Regular flooding occurs and flood risk assessment should be provided.
- Tree survey should be required.
- No electricity.
- Detrimental impact upon wildlife.
- Noise and disturbance from site and any use of a generator.
- Visual harm.
- Loss of privacy.
- Settled community will be outnumbered.
- Concentration of sites.
- Septic tank is not large enough.
- Applicant has tapped into neighbouring water supply which has lowered pressure.
- Applicants do not appear to need the site as they have not moved on or lived there.

4.2 The Staplehurst Society raises objections which are summarised as follows:

- Intrusion of development into the countryside and visual impact.
- Mobile home could be changed at any time.
- Does not conform with the Staplehurst Village Design Statement.
- Landscaping is not sufficient.
- Impact upon road safety due to inadequate access track.
- The applicant could have chosen a brownfield site.

- Many families in the area don't have a settled base but have to wait for suitable properties to become available on the market and are not afforded special provisions.
- Village has more sites than it can now cope with.
- Inspectors have only granted temporary permissions.
- Business uses could occur in the future.
- Until a needs analysis has been carried out application should be put on hold.
- A policy decision should be made to stop any further developments on land that would be unavailable for all members of the community until the Planners have completed the needs analysis.

5. CONSIDERATIONS

5.1 Introduction

5.1.1 This is a retrospective application for a change of use of land to residential with the stationing of 1 static caravan and 1 touring caravan and a utility building, and change of use of land for the keeping of horses with a field shelter at Land East of Maplehurst Lane, Frittenden Road, Staplehurst.

5.2 Site Location

5.2.1 The application site is a field on the east side of Maplehurst Lane, approximately 2.2 hectares in area. This is land within open countryside for the purposes of the Development Plan falling within the Low Weald Special Landscape Area.

5.2.2 The site is set back around 135m from Frittenden Road on Maplehurst Lane, which is a private single track road that provides access to other dwellings and three gypsy sites. Within the southwest corner of the field is the proposed residential part of the site which measures some 25m x 40m. It is enclosed by 2m high dark stained close-boarded fencing and covered with gravel. There is a single static caravan on site and a portable toilet. Access is in the southwest corner with gates set back from the lane. The remainder of the field is open grassland where horses are kept.

5.2.3 North of the field is a gypsy site (Maplehurst Paddock) with associated horse keeping that has temporary permission until November 2013 granted at Planning Committee in November 2010 (Ref. MA/10/0903). Beyond the tree-lined east boundary of the field are further open fields and to the southeast a gypsy site (Perfect Place) which has temporary permission until March 2013 granted at Planning Committee in March 2010 (Ref. MA/09/1767). The south side of the field is bounded by a drainage ditch with an open field beyond. Opposite the field

on the west side of Maplehurst Lane is 'Folly Farm' a detached bungalow, which is the nearest residential property to the site.

5.3 History & Proposed Development

5.3.1 Application MA/09/1565 was previously submitted at the site by a different applicant (Webb) in mid 2009 and it was he who developed the site essentially as it now stands. That application was withdrawn in early 2010 and following this, the current applicant bought the site and submitted this application.

5.3.2 Permission is sought for a change of use of land from agricultural to residential in the southwest corner of the site for a gypsy family measuring some 25m x 40m. One static caravan would be positioned in the northwest corner with a touring caravan to the south of it. A pitch roof utility room is proposed in the northeast corner 5m x 4m, 2.2m to eaves and 3.5m to ridge. Access is in the southwest corner.

5.3.3 The gypsy family comprise of the applicant (Miss Linda Lewis), her uncle (Bill Lewis) and her aunt (Sarah Lewis). The agent has stated that they have been living on and off at the site for the last 10 months. They use the site as a base between travelling for horse trading purposes.

5.3.4 Permission is also sought for the remainder of the field to be used for the keeping of horses which can vary between 2-8 horses and the erection of a single storey stable block (12m x 4m) proposed in the northeast corner of the field.

5.4 Principle of the Development

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

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

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.

5.4.2 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and

enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region's open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.4.3 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."

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

5.4.5 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. Draft policy CS12 outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and the Development Delivery DPD to deliver the pitch target of 71 pitches for the period 2006 to 2016.

5.4.6 The Development Delivery DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries. The current timetable indicates that the Development Delivery DPD is scheduled for adoption in March 2015.

5.4.7 Maidstone Borough Council, in partnership with Sevenoaks District Council has procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA) and the initial results have been published. These results will be used to inform a new pitch target to be included in Regulation 27 Consultation version of the Core Strategy. This 2012 GTAA provides the projection of accommodation requirements from 1st October 2011 to 2026.

- 5.4.8 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.
- 5.4.9 Policy ENV46 of the Local Plan relates to equestrian development essentially requiring that development does not cause harm to the area; sufficient land is available for the horses; security is provided by the owners living adjacent to the site; no adverse impacts on the local highway network, residential amenity or nature conservation interest.

5.5 Gypsy Status

- 5.5.1 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."*
- 5.5.2 Information submitted with the application states that the applicant, Miss Lewis is a horse dealer who has previously lived on the road with no fixed address. She has lived and travelled in the south east all her life and has previously stopped where possible with family and friends.
- 5.5.3 Her uncle, Mr Lewis has previously travelled all over Kent for work and is a horse dealer. His work has reduced since a heart attack over 14 years ago. Her aunt also travelled for work with her family and then with Mr Lewis. When Mr Lewis had his heart attack they moved to a house but lived in a caravan at the rear. During this period Mr Lewis had a triple heart bypass. The house was then confiscated and Mr and Mr Lewis then served a short prison sentence. On release they doubled up for a short time on their son's site. They previously rented a flat in Sevenoaks but state that they could not adjust to living in bricks and mortar.
- 5.5.4 I understand that they have lived at the application site on and off for the last 10 months and continue to travel in connection with horse dealing using the site as a base. The agent explains that 1-2 times a month the family have been travelling with Mr Lewis' touring caravan in connection with his horse trading and this often involves stopping on other Gypsy sites including at Meopham and other parts of Kent usually for 1-2 nights, and usually to supervise the movement of horses to/from their land. The agent states that Mr and Mrs Lewis do have health issues but at present these have not prevented them from still travelling although they are mindful that they may struggle to continue with this lifestyle as they grow even older.

5.5.5 Based on the submitted information, I consider that Miss Lewis, her aunt and uncle all pursue a nomadic habit of life and am therefore satisfied that they comply with the above definition.

5.6 Need for Gypsy Sites

5.6.1 Planning Policy Statement 3: Housing makes specific reference to the need to accommodate Gypsies and Travellers. Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites gives guidance on how this should be achieved, including the need to start the process with a clear assessment of needs through Gypsy and Traveller Accommodation Assessments.

5.6.2 A Gypsy and Traveller Accommodation Assessment (GTAA) was conducted previously to assess the level of need for gypsy accommodation over the five year period from April 2006 to April 2011 and resulted in the overall pitch requirement being identified of 44 pitches for the whole 5 year period.

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

54 Permanent non-personal permissions

22 Permanent personal permissions

8 Temporary non-personal permissions

30 Temporary personal permissions

Therefore a net total of 76 permanent pitches have been granted since April 2006.

5.6.4 The Council has consulted on its draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches. This only runs up to 2016 and the latest GTAA will be used to inform a new pitch target to be included in the next consultation of the Core Strategy.

5.6.5 The latest GTAA (2011-2026) provides the projection of accommodation requirements as follows –

2011-2016	105 pitches
2016-2021	25 pitches
2021-2026	27 pitches
Total	157 pitches

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

- 13 Permanent non-personal permissions
- 5 Permanent personal permissions
- 0 Temporary non-personal permissions
- 1 Temporary personal permissions

Therefore a net total of 18 permanent pitches have been granted since 1st October 2011.

- 5.6.6 In terms of unauthorised caravans, based on the bi-annual gypsy and traveller count figures from the July 2011 count and according to the Council's database at the time of writing this report, there were 33 unauthorised mobile homes and 24 unauthorised touring caravans on 27 unauthorised sites.
- 5.6.7 It is considered that the Council met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011 and the latest GTAA indicates a level of need higher than the draft pitch requirement. There are also unauthorised caravans within the Borough which numerous Inspectors at appeal consider an indication of general need.

5.7 Visual Impact on the Countryside

- 5.7.1 The surrounding countryside is characterised by generally flat open fields and pockets of woodland with fields typically enclosed by strong hedgerows and mature trees. Built development is generally small in scale and sporadic.
- 5.7.2 The vast majority of Maplehurst Lane is undeveloped with only semi-detached houses and farm buildings at its very northern end and a number of houses and associated buildings at its southern end around Maplehurst Farm. Between this there is only Folly Farm bungalow and Little Oak Farm (a gypsy site with a personal permission) on the west side. There are also 'Maplehurst Paddock' and 'Perfects Place' gypsy sites on the east side but these developments have been deemed harmful and contrary to countryside protection policies by both the Council and Planning Inspectors. However, they have been granted temporary permissions due to the unmet general need for gypsy sites and personal needs. As such, Maplehurst Lane is largely undeveloped and with open fields or woodland either side, particularly near the application site.
- 5.7.3 The proposals would introduce caravans, the utility building, vehicles, lighting and other associated domestic paraphernalia in addition to the 2m high close-boarded fencing surrounding the site. This represents an intrusion into this previously undeveloped field with the site extending back some 25m into the

field. Whilst there is an existing deciduous hedge along the site frontage it does not serve to greatly reduce the intrusion.

5.7.4 However, I agree with the Inspector for the appeal into 'Maplehurst Paddock' to the north of the site, that the development is of relatively small scale and that the visual harm is limited in scope and localised. Maplehurst Lane is not a public highway and so the site is not as open to public view as say a location on the frontage of Frittenden Road. However, views of the site are possible from parts of Frittenden Road so the impact is still noticeable from public view points.

5.7.5 Nonetheless the development does cause moderate harm to the character and appearance of the countryside and scenic quality of the Special Landscape Area contrary to policies ENV28 and ENV34 of the Local Plan. I appreciate that new hedge planting is proposed around the sides of the site, however, this would take a number of years to provide any softening or screening of the site.

5.8 Residential Amenity

5.8.1 The site is opposite and around 27m from Folly Farm bungalow at its closest point. Being single storey development, at a similar land level to this property, and with the site enclosed by close-boarded fencing, I do not consider there would be any unacceptable loss of privacy or overlooking of this property. Otherwise the site is a sufficient distance from other properties such that privacy is not a determining issue.

5.8.2 Because the development is of single storey height and is 27m from the bungalow, I also do not consider it would be overbearing upon the outlook of Folly Farm or views from this property.

5.8.3 The site does not currently benefit from an electricity connection and I understand there is a private supply along Maplehurst Lane. As such, currently a generator is proposed for use. The details of the generator have been provided and the Environmental Health Manager is satisfied that this type of generator would have a low impact upon neighbouring amenity through noise or disturbance. He advises that it should be suitably housed to further reduce any noise. Based on this advice, I consider that there are no grounds to object on potential noise or disturbance.

5.9 Flooding & Drainage

5.9.1 Localised flooding has been raised by local residents as it has for applications on neighbouring gypsy sites. The site is not located in an area identified as having a high risk of flooding by the Environment Agency. Whilst I appreciate that some land in the vicinity can flood, there is no evidence to demonstrate that there are

serious implications for living conditions or safety and therefore no grounds to withhold permission on this basis.

5.9.2 Foul drainage would be to a sealed cesspool, which would adequately deal with this drainage and ensure no pollution of the local environment provided it is of sufficient size and well maintained. Surface water would be to a soakaway and the Environment Agency has advised that this may not always be appropriate and depends on local geological and hydro-geological characteristics. I consider that a condition requiring specific details of drainage would be appropriate to ensure that adequate arrangements are in place.

5.10 Ecology

5.10.1 Under Natural England's Standing Advice, several ecological features, such as ponds or water bodies, near to the site trigger the need for protected species surveys. I have requested specific surveys relating to Great Crested Newts (GCN), however, the agent does not consider this is necessary and has refused to provide this. A general report on ecology has been provided, which considers the impact the development has had/would have is very low.

5.10.2 As such, I have sought advice from the KCC Biodiversity Projects Officer. She considers that the development works are unlikely to have had a negative impact on protected species. While there is potential for protected species presence in the general area, when gauged against the guidance for planning authorities to only require protected species surveys to be undertaken when there is "a reasonable likelihood of the species being present and affected by the development" (Paragraph 99, Government Circular Biodiversity and Geological Conservation), the advice is that no protected species surveys are required to inform the determination of this application. As such, no objections have been raised.

5.10.3 Based on this advice, I consider there are no grounds to refuse the application on the basis of there being no GCN survey. There is unlikely to have been a negative impact on protected species and on this basis I consider ecological impacts of the development can be accepted.

5.11 Highway Safety & Access

5.11.1 The vehicles movements associated with the site would not result in a large increase above those currently on Maplehurst Lane and onto Frittenden Road. No highway objections have been raised in relation to neighbouring gypsy sites and I do not consider use of the site would be detrimental to highway safety.

5.11.2 The state of the private access road has been raised by local residents and a letter has been received from solicitors on behalf of one resident stating that

compensation will be sought from the Council to repair the damage that has occurred to the privately owned Maplehurst Lane. The claim is that the Council is at fault for granting planning permissions for gypsy sites which are accessed off the lane. It is alleged that the additional traffic using the lane to access these sites is contributing to the poor state of the road.

5.11.3 Whilst the issue of access is a material consideration, the access is considered acceptable in terms of highway safety and issues of maintenance and rights of way over the road are a private matter. Legal advice has previously confirmed that in terms of potential damage to the road, this is a civil issue that is beyond the control of the planning system. There is no right to compensation under the Planning Act.

5.11.4 I agree with Inspector's at nearby sites that they are not so unsustainable that it would warrant refusal bearing in mind Circular 01/06 guidance. Journey distances to Staplehurst are short (around 1.5km) which provides access to GP services, education and other services.

5.12 Personal Circumstances

5.12.1 No specific personal reasons to live at this site have been put forward but it is stated that Mr Lewis is ill, having Type 1 diabetes and his past triple heart bypass and heart attack. Mrs Lewis has recently had two strokes and it is stated that both need a settled base on account of their age and poor health. They do not want to live in bricks and mortar housing and do not consider they could return to living on the road at their age. If permission wasn't granted it is submitted that Miss Lewis would have to continue to live on the road trying to double up with others.

5.13 Equestrian Development

5.13.1 It is proposed to use the remaining land at the site for the keeping of horses in ownership of the applicants and in connection with horse trading. In considering the criteria under policy ENV46 of the Local Plan, the stable block would not be grouped with the proposed development and I consider it should be located close to the residential part to reduce visual intrusion, which can be dealt with by condition. The stable is a typical equestrian building and its size is not excessive; an area for the reception of soiled bedded materials and its disposal along with drainage can be dealt with by condition; sufficient land is available for potentially 4/5 horses with the British Horse Society recommending 2 horses per hectare (site is some 2.28 ha); security would be provided for any animals by the owners living at the site; and the site has easy access to the countryside. (Issues concerning highways and ecology interest have been considered above).

5.13.2 For these reasons, I consider the equestrian element of the proposals comply with policy ENV46 of the Local Plan. I do not consider the applicant's horse trading in association with this parcel of land and the modest stables would result in any unacceptable harm to the area or neighbouring properties. It will be necessary to tie the equestrian use of the land to the residential use of the site because without such security the use would not comply with policy ENV46.

5.14 Other Issues

5.14.1 Other issues not considered above include that a tree survey should be required, the settled community will be outnumbered and concentration of sites, the applicant has tapped into neighbouring water supply which has lowered pressure, the applicants do not appear to need the site as they have not moved on or lived there, a brownfield site could have been chosen, the applicants are afforded special provisions to live at such sites, the village has more sites than it can cope with, and a business use could occur in the future.

5.14.2 There are no significant trees at the site so a tree survey is not required. I do not consider the provision of a total of four gypsy sites (three would be temporary) within Maplehurst Lane, which has around nine houses would dominate the settled community or result in an unacceptable concentration of sites. Tapping into a neighbouring water supply is a civil matter and not a planning consideration. Gypsies and travellers are allowed in principle to live at sites within the countryside and are not required to explore brownfield sites before applying for planning permission. There is no evidence to suggest that Staplehurst village cannot cope with this gypsy site. Business uses can be prevented at the site by way of a condition.

5.14.3 I have been informed that the applicant has used the site on and off recently but this is clearly disputed by local residents who do not consider they have been living at the site. Nonetheless the agent states that the site is needed to provide a settled base when not travelling and the family anticipate that they will continue to spend little time on site so long as they are able to still drive for horse dealing. Therefore, it would seem that a nomadic habit of life is being pursued by the applicant and her family and so they are not always on site. Pursuing this way of life and requiring a permanent base is not grounds to refuse permission.

6. CONCLUSION

6.1 I consider that there would be visual harm to the countryside but because the site is of relatively small scale and the harm is limited in scope and localised, it is moderate harm. This must be balanced against the ongoing need to provide gypsy accommodation. Whilst the Council is working towards providing policy in relation to gypsy and traveller development, providing land allocations and a

new public site, at present there are no adopted policies in place, no sites are available (public sites are full) and no land is allocated.

- 6.2 In this respect consideration must be given to the transitional arrangements as set out in Circular 01/2006. Paragraphs 45 and 46 are particularly relevant in considering planning applications in circumstances where no sites have yet been provided through the Development Plan process. Inspectors have also found that there is a substantial unmet need for sites and there are no alternative suitable sites that are available. In these circumstances, the advice in the Circular is that substantial weight should be given to the unmet need in considering whether a temporary planning permission is justified. Circular 11/95 *The Use of Conditions in Planning Permission* advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission.
- 6.3 As discussed above, moderate harm would be caused to the countryside here. This harm would be lessened if only a temporary permission were to be granted. In balancing the general need to provide sites, the current policy position and the lack of alternative sites against the level of harm caused, in this case, I consider that a temporary permission is appropriate. The Development Delivery DPD that will allocate pitches is scheduled for adoption in March 2015 and so the planning circumstances will change at this time. I consider a 3 year time period is appropriate to tie in with these allocations. It must also be taken into account that the more prominent site, 'Maplehurst Paddock' to the north, was granted a further temporary permission by the Council in November 2010. Whilst there are no specific medical, educational or other needs identified for the applicant's family to occupy this site, there is a personal need for them to have a permanent base. The site will meet this personal need and on this basis I recommend a personal and temporary permission.
- 6.4 I am recommending conditions restricting this to a personal permission, restoration of the site, restricting the number of caravans, providing an amended location for the stables, restricting any business use, details of drainage, lighting and animal waste storage/disposal, restricting the generator and details of its insulation, removal of permitted development rights for boundary treatments and restricting horses kept to those in ownership of the applicant. I have not attached any proposed landscaping conditions because I do not consider the financial outlay for a landscaping scheme is reasonable bearing in mind a 3 year permission is recommended. In addition, any landscaping would most likely be planted in the next planting season (October 2012 – March 2013) and the permission would then only have another 2 years to run. Advice within Circular 11/95 is that conditions must be reasonable and for these reasons a landscaping condition is not recommended in this particular

case. However, I consider a condition to retain the existing hedging along the front of the site is reasonable.

7. RECOMMENDATION

GRANT subject to the following conditions:

1. The occupation of the site hereby permitted shall be carried on only by the applicant Miss Linda Lewis and her resident dependents and Mr William Lewis, his wife and their resident dependents 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 need of the applicant and her family and to enable the situation to be reviewed when work is complete on the Site Allocations DPD. This is in accordance with Maidstone Borough-Wide Local Plan 2000 policy ENV28 and Circular 01/2006.

2. When the land ceases to be occupied by those named in condition 1 or at the end of three years, whichever shall first occur, the use hereby permitted shall cease, all development, materials and equipment brought onto the land in connection with the residential use of the site, shall be removed and the land restored to its former condition;

Reason: To appropriately restore the site in the interests protecting the character and appearance of the countryside and Special Landscape Area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

3. No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home) shall be stationed on the site at any time;

Reason: To safeguard the character and appearance of the countryside in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan and policy C4 of the South East Plan 2009.

4. Notwithstanding the location of the stable block as shown on drawing no. 1114/10/1, an amended plan shall be submitted to and approved in writing by the Local Planning Authority showing an alternative siting of the stable block that is more closely grouped with the residential development at the site. This development shall not commence until such details have been approved in writing.

Reason: To safeguard the character and appearance of the countryside in accordance with Policies ENV28 and ENV46 of the Maidstone Borough-Wide Local Plan (2000) and Policy C4 of The South East Plan 2009.

5. No commercial or business activities other than the keeping of horses on the land associated with the applicant's horse trading 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 in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

6. Within 3 months of the date of this decision, specific details of the proposed means of foul and surface water disposal shall be submitted to the Local Planning Authority for approval in writing. The development shall thereafter be undertaken in accordance with the approved details;

Reason: In the interests of proper drainage and prevention of pollution in accordance with PPS23.

7. Within 3 months of the date of this decision details of existing and any proposed external lighting within the site shall be submitted to the Local Planning Authority for approval in writing. No further external lighting shall be installed at the site beyond that approved under this condition;

Reason: To safeguard the character and appearance of the countryside in accordance with Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan 2000 and policy C4 of the South East Plan (2009).

8. Only one generator shall be used at the site and it shall be that specified within the agent's letter dated 8th December 2011. Within 3 months of the date of this decision details of the means to provide sound insulation of the generator shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken and maintained in accordance with the approved details;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers in accordance with policy ENV28 of the Maidstone Borough Wide Local Plan 2000.

9. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected at the site;

Reason: To ensure an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South East Plan 2009.

10. The stable building and equestrian use of land hereby permitted shall only be used for the keeping of horses in the ownership of the occupiers of the lawful residential use of the site hereby permitted and when no longer used for these purposes shall, together with any other related development, be demolished and the resulting material removed from the land to the satisfaction of the Local Planning Authority;

Reason: To ensure that adequate security and supervision is provided for the animals kept on the land in accordance with policy ENV46 of the Maidstone Borough-Wide Local Plan 2000.

11. Within 3 months of the date of this decision details of the means of storage prior to disposal and the method of disposal of faecal, bedding or other waste arising from the animals housed within the development have been submitted to and approved by the Local Planning Authority. Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers in accordance with policies ENV28 and ENV46 of the Maidstone Borough Wide Local Plan 2000.

12. Within 3 months of the date of this decision, a plan shall be submitted to the Local Planning Authority for approval in writing showing retention and management of the existing hedge along the front, west boundary of the residential part of the site, for the period that the residential use is permitted at the site.

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and PPS7.

13. The development hereby permitted shall be carried out in accordance with the following approved plans:

A4 'Proposed Utility Block Plan' received on 3rd February 2010, drawing nos. 1114/10/1 and 1114/10/2 received on 11th June 2010 and A4 site location plan received on 16th June 2010.

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

Informatives set out below

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

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