

APPLICATION: MA/11/1780 Date: 12 October 2011 Received: 6 December 2011

APPLICANT: Mr Dale Courtnell

LOCATION: LAND AT CHARTVIEW, CHART HILL ROAD, CHART SUTTON, KENT,  
ME17 3EX

PARISH: Chart Sutton

PROPOSAL: Change of use of land to use as a residential caravan site for one gypsy family, including stationing of two caravans, erection of a day room, hardstanding and new access as shown on unnumbered block plan, PBA1 and unnumbered post and rail fence drawing received on 18/10/11.

AGENDA DATE: 19th April 2012

CASE OFFICER: Peter Hockney

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

- it is contrary to views expressed by Chart Sutton Parish Council

### **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- South East Plan 2009: CC1, CC6, C4, H4
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

### **2. HISTORY**

There is no relevant history for the site, however, there are other gypsy sites in the vicinity.

### **3. CONSULTATIONS**

**Chart Sutton Parish Council** "wishes to see the application REFUSED and request that the application is reported to the Planning Committee and state that:-

"The entrance is situated on a busy private road and there is no right of way on to the land from this road, and it is an agricultural field in a Greenfield site in open countryside.

We would also like to point out that the ditch has been damaged and the hedge has already been removed. It has also been brought to our attention that it is a site of landscape interest.

We also note that the erection of a brick and tile day room has been requested and this does seem contradictory to a travelling way of life and more suggestive of a settled lifestyle."

Following re-consultation on information regarding the applicant's gypsy status **Chart Sutton Parish Council** stated:-

"Chart Sutton Parish Council believes there is some doubt over the accuracy of some of the contents of the letter and wishes to re-iterate our previous recommendation for the application to be refused and reported to the Planning Committee."

**Kent Highway Services** raise no objections to the application on highway safety grounds and state:-

"I can confirm that the lane in question is not publicly maintainable; hence I am not able to comment on the suitability of the proposed access to the property. However, visibility at the junction between the private lane and Chart Hill Road is acceptable and the stretch of Chart Hill Road in question has a good safety record."

#### **4. REPRESENTATIONS**

**Twelve letters of objection** have been received on the following grounds:-

- Detrimental impact on the countryside especially when combined with other sites.
- The application is retrospective and should be refused to discourage such applications.
- The concentration of sites in the area is too high.
- Concern regarding the upkeep of the access.
- Concern about an increase in surface water flooding and issues with foul drainage.
- The applicant is not a gypsy.
- Inadequate access.
- Loss of privacy.
- Loss of hedgerow at the access.

**Two letters of support** have been received for the application.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The site is within the open countryside and the designated Low Weald Special Landscape Area. It is located on the corner of a private lane to the east of Chart Hill Road in Chart Sutton Parish. The site was formerly a grazed field and has a hedgerow running along two sides and is open to the remainder of the field on the other two sides. It is approximately 0.14 hectares in area with a larger area of land in the applicant's ownership to the north.
- 5.1.2 A public footpath, KH562, runs to the west of the site through an open field. The surrounding area is rural in character with two dwellings nearby to the east, further dwellings and farm buildings, some of which are listed, are located further to the east at the end of the private lane. To the west are further dwellings at Little Rabbits Cross with a gypsy site for two gypsy families (3 caravans) to the north west, which was granted permanent non-personal consent at appeal under reference MA/07/1403.
- 5.1.3 To the south of the site, approximately 95m from the junction with Chart Hill, is the Lord Raglan pub. Beyond this is Chart Hill Paddock, another gypsy site.

### **5.2 Proposal**

- 5.2.1 The application is part retrospective and is for the creation of a residential caravan site for one gypsy family for Mr Dale Courtneil and his family comprising a mobile home and a touring caravan along with a brick amenity building, hardstanding and access onto the private lane.
- 5.2.2 The amenity building would be 6m by 4m and 2.6m to eaves and 3.9m to the ridge.

### **5.3 Principle of Development**

- 5.3.1 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.

5.3.2 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.

5.3.3 A key consideration in the determination of this application is central Government guidance contained with *Planning Policy for traveller sites* published in March 2012. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

5.3.4 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 in their Local Plans. To this end 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). The GTAA concludes the following need for pitches over the remaining Core Strategy period:-

|                             |             |
|-----------------------------|-------------|
| Oct 2011-March 2016         | 105 pitches |
| April 2016- March 2021      | 25 pitches  |
| April 2021- March 2026      | 27 pitches  |
| Total Oct 2011 – March 2026 | 157 pitches |

These figures were agreed by Cabinet on the 14<sup>th</sup> March 2012 as the pitch target to be included in the next consultation version of the Core Strategy.

5.3.5 Draft Policy CS12 of the Regulation 25 version of the Core Strategy outlines that the Borough need for gypsy and traveller pitches will be addressed through the granting of planning permissions and through the Development Delivery DPD.

- 5.3.6 The Development Delivery DPD will allocate the specific sites for residential (including gypsy sites) 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.
- 5.3.7 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 Gypsy Status**

- 5.4.1 Annex 1 of Planning Policy for traveller sites (2012) 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 Objections have been raised on the basis that the applicant is not a gypsy. The Council is aware that Mr Courtnell and his family were residing in a house within the Borough prior to taking up occupation of the site. However, residing in a house does not preclude someone from complying with the gypsy definition and the Council's GTAA includes survey results from gypsies currently residing within housing.
- 5.4.3 The key consideration is whether the applicant complies with the definition of a gypsy and has a site based housing need. The agent for Mr Courtnell states that he is a Romany gypsy whose family originated in London, moved to Medway and has spread out throughout Kent. Since getting married 11 years ago the family has lived in the Maidstone/Staplehurst/Marden area on sites belonging to friends or, more recently, owning houses in Maidstone. It is stated that Mr Courtnell could not adapt to living in a house and frequently slept in a touring caravan in the garden. The agent continues to say that Mr Courtnell travels to horse fairs in the summer starting with Stow-on-the-Wold in May and travelling to fairs at Appleby, New Forest, Epsom and Cambridge and then returning to Stow in October. When he is away Mr Courtnell looks for work fruit picking or roofing. Since the children have started school the travelling has occurred for approximately 6-8 weeks per year and generally fitting the travelling around the school holidays.

5.4.4 Mrs Courtnell is related to the family on the nearby site that was the subject of MA/07/1403.

5.4.5 From the evidence provided I consider that Mr Courtnell and his family comply with definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

## **5.5 Need for Gypsy Sites**

5.5.1 Planning Policy for traveller sites gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

5.5.2 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.

5.5.3 Between 1 April 2006 and 31 September 2011 the following permissions for mobiles have been granted (net):

41 Permanent non-personal permissions  
18 Permanent personal permissions  
8 Temporary non-personal permissions  
29 Temporary personal permissions

Therefore a net total of 59 permanent planning permissions for mobiles have been granted between 1 April 2006 and 31 September 2011.

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

|                             |             |
|-----------------------------|-------------|
| Oct 2011-March 2016         | 105 pitches |
| April 2016- March 2021      | 25 pitches  |
| April 2021- March 2026      | 27 pitches  |
| Total Oct 2011 – March 2026 | 157 pitches |

The requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. Therefore although the pitch target is high for the first five years, the immediate need is not, in my view, overriding.

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

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

Therefore a net total of 19 permanent pitches have been granted since 1<sup>st</sup> October 2011.

- 5.5.6 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 22 unauthorised mobile homes and 18 unauthorised touring caravans on 22 unauthorised sites. The number of unauthorised mobiles and touring caravans was fully taken into account in pitch need figures in the latest GTAA.
- 5.5.7 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 as revealed in the latest GTAA.

## **5.6 Visual Impact**

- 5.6.1 The latest guidance in the Government's Planning Policy for Traveller Sites states that Local Planning Authorities should strictly limit new traveller development in open countryside (para 23) but goes on to state that where sites are in rural areas the considerations are issues of not dominating the nearest settled community and not placing undue pressure on local infrastructure.
- 5.6.2 The site is screened from medium distance views along Chart Hill Road by the hedgerow along the southern boundary. This screens views of the hardstanding and vehicles on the site. There would be glimpses of the top of the mobile home and the proposed amenity room although I do not consider that these views would be harmful to the character and appearance of the surrounding area or the wider landscape in the Special Landscape Area.
- 5.6.3 There would be some views of the site from the private lane, particularly through the access point. However, I do not consider that these short range views would be significantly harmful to the character and appearance of the surrounding area or the wider landscape in the Special Landscape Area.
- 5.6.4 To the west of the site there is a footpath, KH562. There are clear views of the site from this footpath and the introduction of development and the stationing of caravans would have a change to the character of the area. However, the gypsy

site to the north west is also clearly visible from the footpath. At the appeal into MA/07/1403 the Inspector considered that although the site could be seen from the road and the footpath gypsy sites should not be hidden. He later states:-

*"There is clearly a balance to be drawn in terms of screening and planting; so that the occupiers are visually part of the community, whilst the site is screened to reduce its impact to an acceptable level; bearing in mind that the caravans are always likely to be visible, particularly when the leaves are off the deciduous trees, hedges and shrubs."*

5.6.5 It is my view that although the site is visible from the footpath, the proposed post and rail fencing and the proposed hedgerow would suitably soften the impact on the character and appearance of the area to a level that is considered acceptable. Both of these elements can be secured by way of a condition and this would ensure the impact of the site remains at an acceptable level into the future.

## **5.7 Residential Amenity**

5.7.1 There are other residential properties nearby the closest being 'The Fives', however, there would be a separation distance of in excess of 50m between the proposed mobile home and the dwelling at 'The Fives'. This distance would be sufficient to ensure that there would be no significant impact on residential amenity in terms of loss of privacy, loss of light or an overbearing impact.

5.7.2 Similarly, I do not consider that there would be any significant impact on the occupiers of other dwellings in the vicinity that are further away from the site than 'The Fives'.

## **5.8 Highways**

5.8.1 The access to the site is onto a private lane and not a public highway and as such Kent Highway Services have not commented on the access itself. However, the lane is a private road that serves a small number of dwellings and farm buildings and the lane is not heavily trafficked. Furthermore, due to the nature of the lane the traffic using it would be slow moving and the visibility is adequate.

5.8.2 Kent Highway Services confirm that the junction of the lane with Chart Hill Road has adequate visibility and that the stretch of Chart Hill Road has a good crash record. Therefore Kent Highway Services raise no objections and I agree that the application would result in no significant highway safety concerns.



## **5.9 Other Matters**

- 5.9.1 In terms of impact on ecology, the site was a grazed field and the short grass had limited ecological benefit. The loss of part of the hedge through the creation of the access has had some detrimental impact on ecology, however, I do not consider this loss to be so harmful to warrant refusal of the application. The proposed new hedgerow would provide additional habitat for wildlife and would link in with the existing established hedgerow on the boundary with the private lane to provide a corridor.
- 5.9.2 The issues raised by objectors regarding the unauthorised use of and ongoing maintenance of the private lane are private matters between the parties involved and not planning considerations.
- 5.9.3 The application is retrospective but this is not a reason to refuse consent. All applications have to be determined on their own merits, in accordance with the Development Plan and other material considerations whether retrospective or proposed.
- 5.9.4 There are other gypsy sites in the surrounding area and objectors have raised the issue of a concentration of sites. However, there is no policy that prevents a concentration of sites and guidance in the Planning Policy for traveller sites states that sites should not dominate the nearest settled community. I consider that this site, when combined with other gypsy sites in the vicinity, would not dominate the settled community.
- 5.9.5 The site is a relatively small site and the gravel surface across the majority of the site would be porous and would ensure that surface water run off would not significantly increase. The foul sewage would be dealt with by way of a package treatment plant, which provides a better quality discharge than a septic tank. This would require a licence from the Environment Agency, which is outside of the planning considerations.
- 5.9.6 Although the site is within the open countryside, I do not consider that it is so remote from services to warrant a refusal on sustainability grounds. Other gypsy sites have been found to be acceptable and are similar distances from facilities. In addition, the wider considerations of sustainability within the Planning Policy for traveller sites include the advantages of providing a settled base for the occupiers.

## **6. CONCLUSION**

- 6.1 The site is located within the countryside and Special Landscape Area, however, gypsy sites can be acceptable in the countryside. It is considered that the

applicant is a gypsy and complies with the definition contained within the Planning Policy for Traveller Sites.

- 6.2 The visual impact of the site is worse from short range views at the access and from the nearby footpath. However, these views can be mitigated through the planting of some landscaping, which would be secured through a condition.
- 6.3 There is a need to provide gypsy accommodation within the Borough and the revised GTAA published in 2012 indicates that there is a pitch requirement of 105 pitches up until 2016. I consider that this is an acceptable site for a residential gypsy site and whilst granting permission would go toward meeting the identified need I do not give the need for gypsy accommodation much weight in the consideration of this case as the site is acceptable in planning terms.
- 6.4 There are no other significant planning issues that would warrant refusal of the application.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. No more than two 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) shall be stationed on the site at any time;

Reason: To accord with the terms of the application and in the interests of the visual amenity in accordance with Policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and Policy C4 of the South-East Plan (2009).

2. This permission does not authorise the use of the land as a caravan site by any other persons other than gypsies, as defined in Annex 1 of Planning Policy for traveller sites;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

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

Reason: To safeguard the character and appearance of the area and to prevent light pollution in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000) and policy C4 of the South East Plan (2009).

4. No commercial activity or open storage shall take place on the site;

Reason: To ensure a satisfactory impact on the character and appearance of the surrounding area in accordance with policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

5. Within 3 months of the date of this permission the fencing shown on the submitted block plan received on 18 October 2011 shall be fully implemented and maintained thereafter;

Reason: To ensure a satisfactory impact on the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

6. Within 2 months of the date of this permission a scheme of landscaping, using indigenous species which shall include the retention of the existing boundary hedgerows together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted in accordance with policy ENV6 of the Maidstone Borough-Wide Local Plan (2000).

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the planting and seeding seasons October 2012-March 2013; 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 in accordance with policy ENV6 of the Maidstone Borough-Wide Local Plan (2000).

8. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls other than those hereby permitted shall be erected;

Reason: To safeguard the character and appearance of the area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

9. The development of the amenity building shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the amenity building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

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

10. The development hereby permitted shall be carried out in accordance with the following approved plans:  
unnumbered block plan, PBA1 and unnumbered post and rail fence drawing received on 18/10/11;

Reason: To ensure the a satisfactory impact on the surrounding area in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

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.