

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 and drawing no. 1114/10/2 received on 7th June 2012.

AGENDA DATE: 26th July 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: NPPF 2012, Planning Policy for Traveller Sites 2012

2. HISTORY

See appended report

3. CONSULTATIONS (SINCE DEFERRAL)

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

"The Parish Council had received letters from local residents concerned about outnumbering of the settled community and a deteriorating situation in the area, including significant worsening of the road, erection of a telegraph pole and alleged tapping into a water supply pipe. Councillors requested that copies of the letters be sent

to MBC. Councillors expressed the view that the Borough solicitor should consider whether the site activity was consistent with rights of access on the private road and remained concerned about both the urbanising impact of such land use on this rural area and the implications of such development on a flood plain."

4. REPRESENTATIONS (SINCE DEFERRAL)

4.1 6 neighbour representations received raising the following (summarised) points:

- Larger mobile home now on site.
- Two sheds and portaloo on site when original application stated one utility building.
- Telegraph pole has been erected.
- Site now has more visual impact.
- Landscaping has been carried out in a poor manner and will affect views from nearby residence.
- Northern fence appears to have been moved on the plans.
- Tapping into the local water supply should not be condoned by granting permission.
- Localised flooding.
- Is a field shelter and utility room still proposed?
- Appears to be an additional person living on site.
- Damage to access road.

5. CONSIDERATIONS

5.1 Introduction

5.1.1 This retrospective application for a change of use of land to residential for a gypsy family and change of use of land for the keeping of horses was originally heard at the Planning Committee of 8th March 2012. Temporary and personal permission for 3 years was recommended but a decision on the application was deferred by Members. (The original committee report is attached as an appendix)

5.2 Reason for Deferral

5.2.1 Members deferred a decision on the application for the following reasons:

To enable officers to liaise with the applicant to regularise and seek improvements to the site, with Ward Councillors and a member of Staplehurst Parish Council to be involved in the discussions.

5.2.2 Having reviewed the 'webcast' of the meeting the main issues relating to improvements to the site from Members (the reason for deferral) concerned the impact of the fencing, landscaping, the amount of hard surfacing, and the location of the mobile home. Members also discussed the temporary period for permission and whether a longer period or permanent permission would be more suitable in order to secure landscaping and improvements to the site.

5.3 Proposed Changes to the Development

- 5.3.1 A meeting has been held with the applicant's uncle and her partner, Ward Councillors Lusty and Hotson and two representatives from the Parish Council to agree potential improvements to the site. Following this an amended plan has been submitted by the applicant showing the agreed changes.
- 5.3.2 In terms of landscaping, hedge planting on the outside of the fencing enclosing the site, with a thicker hedge on the north side, and hedge planting on the outside of the fencing within the access splay is proposed. Species are a mix of elder, dogwood, privet, spindle and hawthorn, these being native species that are quicker growing, on the advice of landscape officers. In addition gaps within the hedging alongside the lane to the north of the site would be filled. Trees are also proposed on the outside of the hedging and extending to the north of the site. Trees proposed are cherry and alder again being native and quicker growing trees. The existing hard surfacing would be reduced on the north side of the site where there would be a small lawn and patio area.
- 5.3.3 The mobile is now shown to the rear, east of the site rather than at the front and this has already been carried out at the site. The fencing in the access splay has been painted green and the applicant's uncle has now recently informed me that he would wish the remainder of the fencing to be dark coloured with 'creosote'. The fencing would remain at its current height. The reduction in the height of the fencing was explored but this was not considered to be necessary by Ward and Parish Councillors with the view taken that it would expose the site further, reduce privacy, and that suitable landscaping in time could soften/screen the fencing.
- 5.3.4 The latest plans no longer show the utility room, however, having discussed this with the applicant's uncle, this is still proposed and would be sited between the mobile home and lawn on the east side of the site, near to the previous position. Two sheds have been also been erected at the site just to the north of the mobile home for domestic storage and washing machines etc. that are not

shown on the plan. I have been informed that one would be removed following erection of the utility building but they would wish to keep one and move it to the south of the mobile home. Whilst the latest plans sent out for re-consultation did not show these details, the utility building would be in a similar position as previously shown and the sheds are on site so I do not consider any parties would be prejudiced by considering these details. The portable toilet would be removed following erection of the utility building. I have been notified that the applicant's partner, Mr Greg Lawton, would also now be living at the site in addition to her uncle and aunt.

5.4 Policy Changes

- 5.4.1 Since the previous Committee Meeting the National Planning Policy Framework (NPPF) has been introduced (end of March), which replaced all previous government policy. The Government's 'Planning Policy for Traveller Sites' (PPTS) was also introduced which replaces Circular 01/06.
- 5.4.2 The PPTS places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and allowing for sites in rural areas. The definition of gypsies and travellers as not changed. Consideration must be given to the existing level of provision and need for sites, the availability (or lack) of alternative accommodation, and other personal circumstances. It states that Local Planning Authorities should strictly limit new traveller development in open countryside (paragraph 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. I do not consider the PPTS has resulted in any significant changes in terms of the assessment of this application, the main consideration still being need for sites, environmental impact and impact upon the local area. I conclude that the principle of the development at this rural location is still acceptable.

5.5 Update on Need

- 5.5.1 Soon after the previous meeting (14th March), Cabinet agreed the pitch target (2011-2026) to be included in the next consultation version of the Core Strategy based on the latest GTAA 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

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

23 Permanent non-personal permissions

6 Permanent personal permissions

0 Temporary non-personal permissions

5 Temporary personal permissions

Therefore a net total of 29 permanent pitches have been granted since 1st October 2011.

5.5.3 As stated under the last report, 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 Assessment

5.6.1 The proposed landscaping would in time help to screen and soften the fencing around the outsides of the site and also within the access splay. As stated under the original report, this would obviously require time to take effect but I note the applicant has already planted some of this. At present only privet has been planted and the plans show a mixed hedge. The applicant has confirmed that the other species would be planted to provide this mix. Additional hedging is proposed on the north side of the site and to plug the gaps in the hedging alongside the lane and again some of this has already been carried out. Trees are also now proposed around the site. Overall, I consider this does mark an improvement on the previous proposals and in time the fencing would be screened and the site would better assimilate into the landscape.

5.6.2 The hedge species proposed include some that are not outlined in the landscape character guidelines for this area but they are still native and quicker growing than those in the guidelines. This is also the case for the trees and on balance I consider the species to be acceptable.

5.6.3 The fencing in the access splay has been painted green and I have been recently informed that the intention is for the remainder of the fencing to remain dark coloured with 'creosote'. This would result in two colours which would not be acceptable but I have been informed that the applicant would be willing to accept the Council's recommendation. I consider that staining the fencing green draws attention to, and increases the domestic appearance of the external face of the site. In my opinion the dark colour currently at the site, or possibly a dark brown, is preferable to green. I therefore recommend a condition to provide these details for approval.

5.6.4 The mobile home is shown to the rear of the site and this has been carried out. Members were concerned over the previous position at the front of the site with the proximity to 'Folly Farm' opposite, in terms of outlook and privacy. The new position is further from 'Folly Farm' but I consider it is more visually prominent. However, I note Members were concerned regarding the proximity to Folly Farm and with this in mind the new position strikes a balance between the impact on this property and visual impact. An area of hard surfacing at the north end of the site would be replaced with a lawn and shrubs. Whilst this area is screened from public view the reduction of hard surfacing is an improvement. The utility building is in a similar position as was previously considered and the shed to be retained to the south of the mobile home would have a minimal impact upon the landscape in the context of the other development. Plans can be secured by condition to show the exact siting of the shed and utility building and the removal of one of the sheds and portable toilet.

5.7 Other Matters

5.7.1 Other matters not addressed above and raised by the Parish Council and local residents relate to a larger mobile home on site, the telegraph pole, landscaping, localised flooding, damage to the lane, tapping into water supply and an additional person living on site. Any permission would allow for 1 mobile home at the site and the maximum size is defined in law. The current mobile home does fall within the size restrictions. The telegraph pole does not need planning permission but is there as a result of the development. However, there are other poles on the opposite side of the lane so this is not out of character. The issue of flooding, alleged tapping into water supply and damage to the lane is assessed in the previous report. The additional person living at the site is the applicant's partner, which is not objectionable.

6. CONCLUSION

6.1.1 Overall, I consider the proposed changes do represent improvements to the visual impact of the development but I still consider the proposals would cause localised harm to the character and appearance of the area to a level that is not acceptable. I therefore do not consider a permanent permission is appropriate. However, as stated previously, this harm 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. The PPTS refers to the grant of temporary permission where there is not an up to date five year supply and therefore, as before, I consider a temporary and personal permission is still appropriate in this case.

- 6.1.2 Previously a 3 year temporary permission was recommended and the issue of a longer period was discussed by Members, mainly to allow landscaping conditions to be attached. I consider that a 5 year time period is a reasonable period to justify attaching landscaping conditions and also note the applicant has already carried some of this out so is clearly willing to provide the landscaping. As such, in this particular case, I consider 5 years is appropriate.
- 6.1.3 I recommend the same conditions as before but amended to include reference to the NPPF and PPTS, a 5 year instead of a 3 year temporary permission, additional landscaping conditions, plans to clarify of the exact position of the utility building and shed, and a condition requiring details of the staining of the fence.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The occupation of the site hereby permitted shall be carried on only by the applicant Miss Linda Lewis, her partner and her resident dependents and Mr William Lewis, his wife and their resident dependents and shall be for a limited period of five 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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

2. When the land ceases to be occupied by those named in condition 1 or at the end of five 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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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), the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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 the NPPF 2012.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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. The approved details shall thereafter be maintained.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

13. All planting, seeding or turfing comprised in the approved details of landscaping as shown on drawing no. 1114/10/2 received on 7th June 2012 shall be carried out either before, or in the next planting and seeding season following approval (October 2012 to March 2013). Any trees or plants which die, are removed or become seriously damaged or diseased for the period that the residential use is permitted at the site, 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 an appropriate setting to the site in the interests of visual amenity in accordance with Policies ENV6, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

14. Within 3 months of the date of this decision, a plan showing the site layout as hereby approved and to include details of the specific location of the proposed utility building and shed shall be submitted to the Local Planning Authority for approval in writing. The details shall include a timetable for the removal of one of the sheds and the portable toilet currently on the site. The approved scheme shall be carried out and completed in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

15. Within 3 months of the date of this decision, details of the colour to be used to stain all the fencing at the site shall be submitted to the Local Planning Authority for approval in writing. The approved details shall be implemented within 1 month of written approval and thereafter maintained.

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, the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

16. Notwithstanding the plans required under conditions 4 and 14, 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 and drawing no. 1114/10/2 received on 7th June 2012.

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000), the NPPF 2012 and the Planning Policy for Traveller Sites 2012.

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.