

APPLICATION: MA/12/0760 Date: 26 April 2012 Received: 15 June 2012

APPLICANT: Mr G Smith

LOCATION: LAND AT THE MEADOWS, LENHAM ROAD, HEADCORN, MAIDSTONE, KENT, TN27 9LG

PARISH: Headcorn

PROPOSAL: Continued use of land as a residential gypsy site without complying with previously imposed conditions relating to restricted occupancy to Mr J Bignall Snr and his immediate family, and including the stationing of a mobile home; the retention of hardsurfacing and boundary fencing and proposed boundary fencing; the retention of a day room with conservatory addition; a separate storeroom building; and the retention of a new access created onto the Lenham Road.

AGENDA DATE: 22nd November 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 Headcorn 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 AND BACKGROUND**

MA/08/0393 – Erection of a day room to serve existing Gypsy site (Resubmission of MA/07/2430) – APPROVED WITH CONDITIONS.

MA/07/2430 – Erection of a day room to serve existing Gypsy site – REFUSED.

MA/06/1181 – Variation of condition 1 and 2 of MA/00/1117 (Change of use of the land to allow the siting of a residential caravan for a gypsy family and the erection of a toilet block) to permit permanent occupation of the site with

personal consent to Mr and Mrs John Bignall Snr – APPROVED WITH CONDITIONS.

MA/02/0834 – Erection of a permanent utility building – REFUSED – DISMISSED AT APPEAL.

MA/02/0324 – Variation of condition 3 of permission MA/00/1117, to allow a mobile home and a touring caravan to remain on the site all year – REFUSED – ALLOWED AT APPEAL.

MA/00/1117 – Change of use of the land to allow the siting of 1 No. residential caravan for a gypsy family and the erection of a toilet block – REFUSED – ALLOWED AT APPEAL.

MA/94/1012 – Retrospective application for change of use of land from agriculture to a mixed use comprising agriculture and the stationing of two caravans for occupation by a gypsy family between 1 October & 30 June each year – REFUSED – DISMISSED AT APPEAL.

MA/93/0765 – Use of land for the siting of (i) a residential caravan for the gypsy family (ii) water troughs and water tank together with the erection of a shed and electricity metre box and the laying of a hardstanding – REFUSED – DISMISSED AT APPEAL.

The site was granted planning permission at appeal under MA/00/1117 for a temporary personal permission to Mr J Bignall (and dependants) for a 5 year period with a condition that only allowed caravans on site from 1 October to 30 June. Following the grant of this permission application MA/02/0324 was allowed at appeal to permit caravans on site all year round. Planning permission was granted under reference MA/06/1181 to allow a permanent gypsy caravan site with a condition limiting occupation to Mr J Bignall Snr (and immediate family residing with him). Mr J Bignall has since left the site and planning permission is sought to vary the previous personal condition.

3. CONSULTATIONS

- 3.1 **Headcorn Parish Council** wish to see the application REFUSED and request that the application be reported to Planning Committee stating:-

“Please be advised that my Council would wish to see this application refused as the occupants do not satisfy the criteria of the original planning inspectorate decision, they appear not to be immediate family. We would wish to see this referred to the planning committee if it is contrary to your decision.”

- 3.2 **Ulcombe Parish Council** wish to see the application refused but does not wish for it to be reported to planning committee stating:-

"Please could you note that Ulcombe Parish Council wishes to see the application refused because the site permission was originally granted to the Bignall family and the personal circumstances which applied when Mr Bignall was given his personal permission no longer apply because he is no longer resident on the site.

The parish council does not request that the application be referred to MBC planning committee."

- 3.3 **MBC Environmental Health Manager** raises no objections to the application and recommends a condition regarding foul sewage discharge and informatives.

- 3.4 **Kent Highway Services** raise no objections to the application or the introduction of a new access onto Lenham Road and recommend conditions in relation to the maintenance of visibility splays and the set back of gates.

4. **REPRESENTATIONS**

- 4.1 **3 letters** of objection have been received on the following grounds:-

- Noise, disturbance and anti-social behaviour from the surrounding gypsy sites.
- Highway safety issues from the new access.
- Loss of property value.
- Increased occurrences of crime.
- The circumstances granted to Mr Bignall are no longer relevant to the new occupiers.
- Yes to a name change from Mr Bignall but no to stationing of a mobile home due to the visual impact on the landscape.

5. **CONSIDERATIONS**

5.1 **Site Description**

- 5.1.1 The site is within the open countryside and is in an area designated as part of the Low Weald Special Landscape Area due to the scenic quality of the landscape. It is located on the north west side of Lenham Road approximately 2.3km from the village of Headcorn.
- 5.1.2 The site is an existing gypsy site that was granted permanent personal consent for Mr J Bignall Snr and his immediate family residing with him under reference MA/06/1181. The lawful planning use of this field is for a gypsy site for

occupation by Mr J Bignall Snr, if the site is occupied by anyone else then that is not lawful.

- 5.1.3 The overriding character of the area is open agricultural fields with traditional field boundaries interspersed with sporadic development. The development that is in the surrounding area is predominantly residential (traditional bricks and mortar housing and Gypsy caravan accommodation) or agricultural and is generally located adjacent to Lenham Road fronting the road.

5.2 Proposal

- 5.2.1 The application is to retain the site as a gypsy residential caravan site without complying with previously imposed conditions (under application MA/11/relating to restricted occupancy to Mr J Bignall Snr and his immediate family, and including the stationing of a mobile home; the retention of hardsurfacing and boundary fencing and proposed boundary fencing; the retention of a day room with conservatory addition; a separate storeroom building; and the retention of a new access created onto the Lenham Road.
- 5.2.2 The applicant is Mr Gilbert Smith and it is proposed that he would live on the site with his wife Chevone and children Rushell, Shannon, Whitney Jade, Gilbert Dido, Priscilla, Tallis. Four of the children are enrolled at Headcorn Primary School and all of the family are registered with Headcorn surgery for healthcare.

5.3 Principle of Development

- 5.3.1 There are no saved Local Plan Policies that relate directly to the provision of gypsy site accommodation. 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 14th 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 Local Plan.
- 5.3.6 The Development Delivery Local Plan will allocate the specific sites for residential (including gypsy sites) and non-residential development, other than the strategic allocations to be made in the Core Strategy, as well as dealing with land designations and village boundaries. The timetable approved by Cabinet in May 2012 indicates that the Development Delivery Local Plan is scheduled for adoption in December 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 The application documents state that the applicant (Mr Gilbert Smith) is son of Mrs Bignall and the step son of Mr Bignall. He is related to the occupiers of another gypsy site on the opposite side of the road.
- 5.4.3 From discussions I have had with the applicant, it is clear that he works as a landscape gardener and travels for the purposes of his work. I am satisfied from the information in the application and the matters discussed with the applicant that the applicant complies with the definition of a gypsy.

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 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
- 7 Temporary personal permissions

Therefore a net total of 29 permanent pitches have been granted since 1st 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 25 unauthorised mobile homes and 22 unauthorised touring caravans on 24 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 located adjacent to the boundary with Lenham Road and the site is visible from the road. The site has been made more visible by the creation of its separate access onto Lenham Road thereby affording more direct views into the site.

5.6.3 In the Inspector's decision on MA/00/1117 she considered that the proposal would encroach into the countryside and add to the sporadic development pattern along Lenham Road. In concluding on the matter of visual impact she states:-

"...my conclusion on this issue is that the proposal would be a form of encroachment in the countryside and it would not conserve the natural beauty of the landscape. In these ways it would harm the character and appearance of the area, although the existing natural screening reduces the degree of harm and visual intrusion."

5.6.4 I conclude that there would be harm to the character and appearance of the countryside from the site and this would be consistent with previous decisions. Furthermore, the creation of a separate access to the site has increased its visual impact by making it more visible from Lenham Road.

5.7 Residential Amenity

5.7.1 There are other residential properties in the vicinity both gypsy sites and traditional bricks and mortar housing. The site is sufficiently separated from other gypsy sites and the nearest dwellinghouse (Fiddlers Green, 100m away) 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 from the development.

5.7.2 I note the concerns raised by objectors regarding anti-social behaviour and increased occurrences of crime, however, the application for the use of this gypsy site by another family would not necessarily result in these matters occurring.

5.8 Highways

5.8.1 The proposal includes a new access onto Lenham Road. Kent Highway Services have examined the proposal and are satisfied that the use of the access would

not result in a hazard to highway safety. Conditions are requested in relation to visibility splays and the set back of gates and these would be appropriate to ensure highway safety is maintained.

5.9 Landscaping

- 5.9.1 There is an existing native hedgerow along the frontage with Lenham Road and I consider that it would be appropriate to secure its retention and plug the gaps in the hedge with additional hawthorn. This would assist in mitigating some of the visual harm caused.

5.10 Personal Circumstances

- 5.10.1 The application MA/00/1117 granted permission to Mr Bignall despite the visual impact. The Inspector in her balancing exercise considered that the general need for gypsy sites should be given significant weight and the personal circumstances of Mr Bignall and his family in relation to the stability that a lawful site would provide in terms of the educational needs of the children and the possible healthcare requirements of the family. This led the Inspector to grant a temporary personal permission.
- 5.10.2 The Council decided in determining application MA/06/1181 that the personal circumstances of Mr Bignall and family indicated above, including the fact that he was related to occupiers of other sites in the immediate vicinity, were sufficient to merit a permanent personal consent.
- 5.10.3 The applicant, Mr Gilbert Smith, has a wife and a number of children, four of which are enrolled at Headcorn Primary School. These children range in age from the eldest 11 down to the youngest at 4 years old. Mr Smith's wife Chevone is also expecting another child. I have had regard to the Planning Policy for traveller sites (2012) and acknowledge that a settled base would provide a stable situation to enable the continued education of the children. In addition, I consider that this settled base would provide stability for any healthcare issues that would arise. Mr Smith is related to the occupiers of a site in the immediate vicinity.
- 5.10.4 I consider that the personal circumstances of the applicant and his family have significant weight in the determination of this application. These circumstances being the number of children of school age and in particular their enrolment in the local school to meet their educational need. I do not consider that the general need for gypsy sites would be would carry significant weight due to the work that has been undertaken by the Council in terms of the needs assessment and work on the provision of sites.

5.10.5 Overall, I consider that the applicant and his family have similar personal circumstances to those that Mr Bignall and his family had when they applied for permanent consent. It is my view; given the length of time that the children on the site are likely to be involved in education, that a permanent personal consent would be appropriate in the circumstances.

5.11 Other Matters

5.11.1 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.

5.11.2 Approval of this application would provide an additional pitch for a gypsy family and would prevent the applicant from living unlawfully. However, given that this site has a permanent permission already (albeit to a different family) it would not result in a net increase of pitch provision in relation to the identified need in the GTAA.

6. CONCLUSION

6.1 The site is within the open countryside and currently a gypsy site with a personal permission to Mr Bignall and his family. The applicant Mr Gilbert Smith wishes to occupy the site without the restriction to Mr Bignall.

6.2 The use of the site and the development does result in visual harm to the character and appearance of the countryside. Against this harm the general need for gypsy sites and the specific requirements of the applicant need to be balanced. I give little weight to the general need in this case due to the work undertaken by the Council on the assessment of need and that work that is continuing with the provision of sites. I give significant weight to the personal circumstances of the applicant and his family and conclude that a permanent personal planning permission should be granted.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The use hereby permitted shall be carried on, and the caravans occupied, only by Mr Gilbert Smith and/or Mrs Chevone Smith (and any dependents) and shall be for a limited period, being the period during which the premises are under control of Mr Gilbert Smith or Mrs Chevone Smith;

Reason: In order to meet the identified need of the applicant in accordance with guidance contained in Planning Policy for Traveller Sites.

2. When the premises cease to be under the control of Mr Gilbert Smith and/or Mrs Chevone Smith the use hereby permitted shall cease and any caravan and all materials and equipment brought on to the premises in connection with the use shall be removed, including any hardstanding or cesspool, and the land restored to its former condition prior to the commencement of the use;

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

3. No more than three 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).

4. 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).

5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i. within 3 months of the date of this decision a scheme for:
 - the means of foul and surface water drainage of the site;
 - visibility splays at the site access and the set back of entrance gates by at least 5.5m from the highway;
 - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities;
 - the restoration of the site to its condition before the development took place, (or

as otherwise agreed in writing by the local planning authority) at the end of the period that the site is occupied by those permitted to do so;

(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

ii. within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: To ensure a satisfactory impact on the character and appearance of the countryside and in order to meet the identified need of the applicant in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and guidance contained in Planning Policy for Traveller Sites.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

7. 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).

8. 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).

Informatives set out below

Any sewage treatment requires the system to be desludged on a regular basis to prevent the build up of solids so that sewage flows freely through the unit. Anyone used to remove the sludge should be registered with the Environment Agency to carry waste. Sludge should normally be removed every 12 months or in accordance with the manufacturer's instructions.

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.