

APPLICATION: MA/12/1229 Date: 30 June 2012 Received: 26 February 2013

APPLICANT: Mr A Deeprise

LOCATION: NEVEREND LODGE, NEVEREND FARM, PYE CORNER, ULCOMBE,  
MAIDSTONE, KENT, ME17 1EF

PARISH: Ulcombe

PROPOSAL: Retrospective application for the change of use of land for the stationing of a mobile home for residential occupation by a gypsy family and the erection of a day room and including the proposed creation of a new access onto the highway.

AGENDA DATE: 16th May 2013

CASE OFFICER: Jon Lawrence

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

- it is contrary to views expressed by Ulcombe Parish Council

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, ENV41
- Government Policy: NPPF (2012), Planning Policy for traveller sites (2012)

## **2. HISTORY AND BACKGROUND**

2.1 Neverend Farm has a record of planning permissions relating to agricultural and non-agricultural uses, as well as enforcement investigations. The application site now known as Neverend Lodge was formerly part of the holding of Neverend Farm.

MA/12/1198 An application for prior notification of agricultural development being the introduction of an area of hard standing to provide a vehicular access way and parking/turning area – PRIOR APPROVAL REFUSED, FULL PLANNING PERMISSION REQUIRED

MA/01/0182 An application for the prior approval of the local planning authority for the erection of a greenhouse – PRIOR

APPROVAL REFUSED, FULL PLANNING PERMISSION  
REQUIRED

MA/01/0151	Change of use of agricultural building for the sorting and recycling of paper – APPROVED WITH CONDITIONS
MA/00/0338	Open storage of scaffolding and building equipment - APPROVED WITH CONDITIONS
MA/89/0762	Details pursuant to MA/87/1994E being design, external appearance and landscaping - APPROVED WITH CONDITIONS
MA/87/1995	Renewal of temporary permission of agricultural mobile home - APPROVED WITH CONDITIONS
MA/87/1994	Dwelling on a small holding - APPROVED WITH CONDITIONS

2.2 The current application has been submitted in response to an enforcement investigation (ENF/12338).

### **3. CONSULTATIONS**

3.1 **Ulcombe Parish Council** wish to see the application REFUSED and reported to planning committee stating:-

“The proposal would be an intrusive development in the open countryside for which there is no specified need or justification in the application. The parish council notes that application MA/12/1198 which would have given access to the site has been refused by Maidstone Borough Council.

The reason given for refusal of the prior notification application for an access under MA/12/1198 is noted as being that the area of the proposed hard surfaced access and thus the area covered by the development would exceed 465m<sup>2</sup> and therefore required planning permission.

The parish council would also like to emphasise that its attention has been drawn to the reported presence of great crested newts within the pond and its surrounding area and is concerned that the proposed new access, owing to its close proximity, would be harmful to this habitat. Additionally, the parish council considers that this access would create an unnecessary proliferation of accesses onto the narrow country lane on the point of a bend”.

3.2 **MBC Environmental Health Manager** raises no objections subject to a

condition requiring foul sewage treatment details to be submitted for approval, and subject to informatives concerning the site licence; storage of waste and recyclable materials; and foul sewage treatment.

- 3.3 **KCC Ecology**:- "No ecological information has been submitted with this application. We have reviewed the data we have available to us (including aerial photos and biological records), the information submitted with the planning application and photos provided by the planning officer.

The aerial photos indicate that the majority of the proposed development site is regularly grazed grassland. There is also a pond and an area of rough vegetation to the west of the site – this area has the potential to be suitable for protected species such as reptiles and great crested newts.

The planning application is part retrospective as the base for pitch and the road have already been installed. Unfortunately it is the installation of these areas which have the largest potential to impact protected species. An ecological scoping survey should have been carried out prior to the work being carried out to assess the impact the proposed development would have had on any protected species. The survey would have made recommendations for any further surveys which were required. The surveys would have informed any necessary mitigation strategy.

As the work has already been carried out – on this occasion we do not require an ecological survey to be carried out.

However because there has been a potential loss of habitat we recommend that an enhancement strategy for the site is produced and implemented as a condition of planning permission. This also meets the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged".

- 3.4 **KCC Highways**:- "No plans are provided showing details of the new access or its precise location. Should use be made of the existing access I would not wish to raise objection as this proposal would not present a significant increase in use. However if a new access is proposed certain conditions should be met as follows:

The applicant is advised that a licence must be obtained for the required vehicular crossing or any other works within the highway. Applicants should telephone 08458 247800 in order to obtain the necessary Application Pack.

Use of a bound surface for the first 5 metres of the access from the edge of the highway.

Gates to open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway.

Provision and maintenance of 25 metres x 2 metres x 25 metres visibility splays at the access with no obstructions over 0.9 metres above carriageway level within the splays, prior to use of the site commencing.”

#### **4. REPRESENTATIONS**

4.1 **FOUR letters** have been received from local residents.

4.2 **One letter is in support** of the application on the basis that it would help to combat thieving and arson attacks on property and therefore improve safety in the area.

4.3 **Two letters of objection** have been received from the same party in respect of the original and additional details submitted with the application. In summary the objections are on the basis that access is agricultural only and shared; site to be used for developing for more caravans, will become traveller site; ponds on site are home to Great Crested Newts; the land is NOT of poor agricultural quality and was an orchard then a market garden; site is a registered agricultural holding; development is only 3 metres away from a running stream; ground levels mean surface water could not go into ponds; no plans for disposal of sewage; site is outside village envelope; no justification for the development; if it was for agriculture purposes then would need a justification; is described as retrospective but only development on site is touring caravan with awning and portaloos; quarter of ponds shown on site plan have been filled in; stream on boundary not shown on site plan.

4.4 **The other letter is also an objection** on more general matters resulting from gypsy development such as domination of the local community, and protecting local amenity and the environment.

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

5.2 This site is within the open flat 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 to the south-west of the small hamlet of Pye Corner and south of the village of Ulcombe which is only some 0.75km distance away by road. The application site is accessed via a typical single width rural highway

that runs between the Headcorn Road and the C85 Eastwood Road, being located on the east side.

- 5.3 This application relates to land forming part of a field in the south of the agricultural holding known as Neverend Farm, and now also in part Little Neverend Farm. Its lawful use is for agriculture. Notwithstanding the previous permissions and enforcements relating to various non-agricultural uses on Neverend Farm, it remains agricultural in overall character. The change of use of the subject site to residential for a gypsy family has already been carried out, although at present there is only one touring caravan stationed there. A small collection of associated shed like buildings have also been erected, but these do not amount to the day room proposed under this application even though they are in the same general area. The "proposed" hardsurfaced access serving the site has now been constructed along its northern edge, with further hardsurfacing then forming an internal driveway and base for the caravan. Post and rail fencing has also been erected around the boundaries of the site. A few horses also graze on the eastern part of the site away from the residential part, where hens and chickens are also kept.
- 5.4 The nearest residential property is Neverend Farm which is on adjoining land to the north-east.
- 5.5 A public footpath (KH332) runs on a north west/south east axis across land to the south of the site, some 300m from the south boundary of the site.
- 5.6 The overriding character of the area is open agricultural fields with traditional field boundaries interspersed with sporadic, mostly residential (including gypsy and traveller) and agricultural, development. There is in particular a fair cluster of development around the junction of Pye Corner to the north-east.
- 5.7 There are other authorised Gypsy caravan sites on land immediately to the east, being "Roydon Farm" and "Hawthorn Farm". Roydon Farm has personal occupancy conditions. Both have restrictions on the number of caravans. These sites are located via a lengthy partly unmade access track which is accessed further east along the single width highway that also serves the application site. The agricultural holding of Armana Farm is also accessed via this trackway, along with a small collection of dwellings further south.

## **6. Proposal**

- 6.1 This application is for the existing change of use of this land for the stationing of a mobile home for residential occupation by a gypsy family, and also involves the proposed erection of a day room and the creation of a new single width access onto the highway. This development has also involved the carrying out of

associated fencing around the boundaries of the site and hardsurfacing forming a driveway and a base around the residential area.

6.2 The occupiers of the site are the applicant, his wife and their youngest son.

## **7. Principle of Development**

7.1 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 as this was previously covered under housing Policy H36 but this is not a 'saved' policy.

7.2 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) 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.

7.3 Work on the Local Development Framework is progressing, however, as yet, there is no adopted Core Strategy. 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 procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded 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. However, an amended target was agreed by Cabinet on 13<sup>th</sup> March 2013 of **187 pitches** (30 additional pitches) to reflect the extension of the new Local Plan period to 2031.

- 7.4 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.
- 7.5 Since this, the Local Development Scheme approved by Cabinet on 13<sup>th</sup> March 2013 approved the amalgamation of the Core Strategy Local Plan and the Development Delivery Local Plan, to be called the Maidstone Borough Local Plan. The single local plan would contain policies together with the balance of all land allocations (including gypsy and traveller sites). The timetable for adoption is July 2015.
- 7.6 Issues of need are dealt with below but, in terms of broad principles, Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

## **8. Gypsy Status**

- 8.1 Annex 1 of the PPTS 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."*

- 8.2 The issue of "gypsy status" has not been raised particularly in comments made, however, it remains a key consideration whether the applicants/occupants comply with the definition of a gypsy and have a site based housing need.
- 8.3 In this respect, the applicant and family have advised that in the 2 years prior to moving on to this land they resided on a pitch at a private gypsy site known as Pillreed Lodge, High Halden, firstly in a tourer and then in a mobile home. They have also confirmed that prior to this they resided in caravans in the gardens of properties they were developing or in the gardens of their parents' property. It has been confirmed that the need to develop property arose from a downturn in groundwork employment that the applicant formerly travelled extensively to undertake.
- 8.4 The applicant has also confirmed that he and his sons are involved in the horse trade and travel for this purpose to horse fairs at the like of Appleby and Blandford.

- 8.5 The applicant has advised he was born and brought up living in caravans, with the family travelling to do fieldwork. He has also confirmed that he comes from a large local travelling family.
- 8.6 The applicant and immediate family do therefore fall within the definition of gypsies and travellers in the PPTS.

## **9. Need for Gypsy Sites**

- 9.1 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.
- 9.2 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

However, an amended target was agreed by Cabinet on 13<sup>th</sup> March of **187 pitches** (30 additional pitches) to reflect the extension of the new local plan period to 2031.

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

30 Permanent non-personal permissions  
6 Permanent personal permissions  
0 Temporary non-personal permissions  
21 Temporary personal permissions

Therefore a net total of 36 permanent pitches have been granted since 1<sup>st</sup> October 2011.

- 9.4 It must be noted that 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. However, the latest GTAA clearly reveals an ongoing need for pitches.



## 10. Visual Impact

10.1 The latest guidance in the PPTS 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, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined, however, this is addressed in the NPPF and clearly under Local Plan policy ENV28.

10.2 As well as being located within the open countryside this area is further designated as part of the Low Weald Special Landscape Area. The policy that seeks the protection of the Special Landscape Area's is ENV34 of the Maidstone Borough-Wide Local Plan (2000) and is a saved policy. It states that:-

**"Particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations."**

10.3 The Low Weald has been recognised as a landscape of county level importance due to its distinctive character. There is a consistent presence of characteristic features such as small, intimate pastures, contained by strong hedgerows, mature trees, shaws and woodlands, meandering streams, farm ponds and winding country lanes and a particular concentration of fine domestic architecture and attractive, small villages and farmsteads.

10.4 The particular character of this area is generally open agricultural fields with sporadic development along the frontages of Eastwood Road, Ulcombe Road, and the narrow lane linking the two that serves the application site. The pattern of development is therefore clearly of agricultural fields with traditional fencing and hedgerow separation.

10.5 This development of gypsy accommodation with the stationing of one mobile home, a day room, and the creation of a new access to the highway, plus the associated operational development of hardstanding and fencing, would not cause significant visual harm to the character and appearance of the surrounding area. This is because the visibility of the main part of the development is/would be limited from the highway due to existing mature vegetation along that boundary, whilst it is/would be largely screened from other directions by tall tree belts to the north and east and other existing mature vegetation to the south. The new access and driveway created from the highway is/would be clearly be visible from that point, but this is only single width and is not an unduly wide or large opening. It is not therefore out of character with the rural lane and does not have any significant adverse visual impact on the surrounding area.

## **11. Residential Amenity**

11.1 A residential use is not generally a noise generating use unlike for example an industrial use. The residential plot would be located a significant distance away from the nearest dwelling at Neverend Farm, around 150 metres, whilst any other properties in the vicinity are around double that distance away. These distances are sufficient to prevent any significant impact on residential amenity in terms of privacy, light or overwhelming, as well as adequate to prevent general noise disturbance. Any excessive noise from the site that does have a significant impact could also be dealt with under Environmental Health legislation.

## **12. Highways**

12.1 The subject "proposed" access has been constructed from the narrow rural lane that links the Headcorn Road and Eastwood Road and runs past the application site.

12.2 Provided certain criteria are met as suggested by KCC HIGHWAYS, then this access would be acceptable in terms of highway safety. These criteria concern adequate visibility splays, which can be achieved without any loss of hedgerow/vegetation; a bound surface at the entrance; and gates opening away from and set a certain distance back from the highway. Conditions can be imposed which will ensure these criteria are met.

## **13. Personal Circumstances**

13.1 The information contained in Section 8 of this report on **Gypsy Status** outlines the personal circumstances of the applicant and his family living on site, and therefore their need to reside on this site.

13.2 The Council has undertaken a new GTAA and has a robust evidence base with regard to need. The GTAA shows a requirement for 105 pitches in the initial 5 year period, which includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This latest GTAA clearly reveals an ongoing need for pitches. The Council has also secured funding for the provision of a new 15 pitch public gypsy site which will be complete in March 2015. In addition, the proposed local plan would contain policies together with the balance of all land allocations (including gypsy and traveller sites). The timetable for adoption is July 2015.

- 13.3 No information has been submitted by the applicant in relation to any search for an alternative site, however, there is no local policy at this time to guide their search.
- 13.4 Although such has not been sought in the submissions, I have considered whether a personal permission and/or temporary permission would be appropriate. However, as long as the site is considered acceptable, then given the general identified need for sites, I do not consider either would be appropriate or necessary.

#### **14. Ecology**

- 14.1 As a large part of this development has already been carried out, then KCC ECOLOGY have advised that they do not require an ecological survey to be carried out. Nonetheless, however, because there has been a potential loss of habitat for species such as reptiles and great crested newts, they recommend that an enhancement strategy for the site is produced and implemented as a condition of any planning permission. This also meets the principles of the National Planning Policy Framework in that "opportunities to incorporate biodiversity in and around developments should be encouraged". Such an enhancement strategy can be secured by way of a condition. This would also accord with policy ENV41 of the Local Plan which has regard to development that could affect ponds and their visual and wildlife function.

#### **15. Other Matters**

- 15.1 It has been indicated on the application form that foul sewage is to be dealt with by way of a septic tank. However, no details have been submitted, so a condition should therefore be imposed requiring such to be submitted, as suggested by the Environmental Health Officer in their comments.
- 15.2 The matter of surface water run off has also been raised in representations made, with it being suggested that the levels on site mean it would not enter the ponds. A condition can also therefore require that details of surface water run off be submitted for approval. This may help to avoid resultant flooding and the risks that it brings.
- 15.3 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. By road Ulcombe is only some 0.75km away and Grafty Green around double that. These do offer, albeit minimal, services and facilities. Other gypsy sites have been found to be acceptable, including those in the immediate vicinity, and are similar distances from facilities. In addition, the wider considerations of sustainability

within the Planning Policy for Traveller Sites document include the advantages of providing a settled base for the occupiers.

- 15.4 It has been suggested in comments made that the applicant is a property developer and that the site/land will be developed into further plots and sold on. This is not, however, a reason to refuse planning permission, and any further development of the site can be judged on its own individual merits at that time, including through assessing the expediency of formal enforcement action if necessary.
- 15.5 There are other gypsy sites in the surrounding area and the issue of “dominating the settled community” has been raised in representations made. However, there is no policy that prevents a concentration of sites, although guidance in Planning Policy for Traveller Sites does state that sites should not dominate the nearest settled community. Nonetheless, in any case, I consider that this site, when combined with other gypsy sites in the vicinity, would not dominate the settled community.

## **16. CONCLUSION**

- 16.1 The site is located within the countryside and Special Landscape Area, however, gypsy sites can be acceptable in the countryside.
- 16.2 It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for Traveller Sites.
- 16.3 The development does not/would not have any adverse visual impact on the character of the area including the scenic quality and distinctive character of the Special Landscape Area.
- 16.4 The development would not have any adverse impact on nearby residential amenity.
- 16.5 The application development, when combined with other gypsy sites in the vicinity, does not dominate the settled community.
- 16.6 The application site is considered to be in a sustainable location, in the context of gypsy and traveller development, that is not so remote from services and facilities to justify a refusal.
- 16.7 The application development does not lead to any increased risk to highway safety.

- 16.8 An enhancement strategy can be secured by condition in the light of the potential loss of habitat for species as a result of the elements of the development already carried out.
- 16.9 Conditions can also be imposed to secure details of foul sewage treatment and surface water run off.
- 16.10 There is a current need for gypsy and traveller sites as identified by the revised GTAA.
- 16.11 There are no other significant planning issues that would warrant refusal of the application.
- 16.12 Taking all the above into account, I therefore consider that it would be appropriate to recommend that planning permission should be granted without any personal or time restrictive conditions.

## **17. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. 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 the Planning Policy for Traveller Sites 2012;

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).

2. 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 Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

3. Details of the external finishes of the day room hereby permitted shall be submitted to and approved by the local planning authority prior to its construction, and thereafter constructed using the approved materials.

Reason: in the interests of visual amenity and in order to protect the character and appearance of the countryside, in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

4. Details on the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal must be submitted within one month of the date of this decision for approval by the LPA. These details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

Reason: in order to meet the advice and requirements contained within the NPPF 2012.

5. Details of the means of disposal of surface water shall be submitted to and approved by the local planning authority within one month of the date of this decision.

Reason: in order to meet the advice and requirements of the NPPF 2012.

6. Details of a scheme for an enhancement strategy for the biodiversity of the site shall be submitted within one month of the date of this decision for approval by the LPA.

Reason: in order to meet the principles of the NPPF to incorporate bio-diversity in developments and in accordance with policy ENV41 of the Maidstone Borough-Wide Local Plan 2000.

7. Within one month of the date of this decision a bound surface shall have been created for the first 5 metres of the approved access back from the edge of the highway and thereafter maintained to the satisfaction of the LPA;

Reason: in the interests of highway safety and to meet the advice and requirements of the NPPF 2012.

8. Within one month of the date of this decision, 25 metres x 2m metres x 25 metres visibility splays with no obstructions over 0.9metres above carriageway level within the splays, shall be provided at the access to the site and thereafter maintained to the satisfaction of the LPA;

Reason: in the interests of highway safety and to meet the advice and requirements of the NPPF 2012.

### **Informatives set out below**

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Any foul sewage treatment process 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.

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required.

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

Any gates at the access to this site are to open away from the highway and to be set back a minimum of 5.5metres from the edge of the carriageway.

The applicant is advised that a licence must be obtained for the required vehicular crossing or any other works within the highway. Applicants should telephone 08458 247800 in order to obtain the necessary Application Pack.