

APPLICATION: MA/12/2276 Date: 16 December 2012 Received: 20 February 2013

APPLICANT: Mrs Susan Hawes

LOCATION: ROYDON FARM, PYE CORNER, ULCOMBE, MAIDSTONE, KENT, ME17 1EG

PARISH: Ulcombe

PROPOSAL: Variation of conditions 1 and 2 of planning permission reference MA/03/2369 (change of use of land to a mixed use of agricultural and residential for the stationing of one mobile home and one touring caravan and utility room for gypsy family) to enable the stationing of two additional mobile homes for an extended gypsy family.

AGENDA DATE: 29th August 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 the Ulcombe Parish Council and they have requested it be reported to Planning Committee if minded to approve the application for the reasons set out below.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. HISTORY

MA/12/2009 – Prior approval application for the erection of an agricultural storage building to replace an existing building – DETERMINED THAT PRIOR APPROVAL REQUIRED AND APPROVAL GIVEN

MA/07/2128 - Variation of condition 2 of planning permission MA/03/2369 (Change of use of land to a mixed use of agriculture and residential, for the stationing of one mobile home and one touring caravan and utility room for

gypsy family) to include the stationing of one additional mobile home – APPROVED/GRANTED WITH CONDITIONS

MA/05/2260 - Change of use from agriculture to residential use for the stationing of 1 no. mobile home for additional accommodation for a gypsy family plus 1 no. touring caravan (resubmission of MA/05/0831) – APPROVED/GRANTED WITH CONDITIONS

MA/05/0831 - Change of use of land from agriculture to the stationing of 4 No mobile homes for members of a gypsy family – REFUSED

MA/03/2369 - Change of use of land to a mixed use of agriculture and residential, for the stationing of 1 no. mobile home and 1 no. touring caravan and utility room for gypsy family as shown on details of utility room – APPROVED/GRANTED WITH CONDITIONS

MA/93/0256 - Erection of 5no. 10m x 3m polytunnels for horticultural use (re-submission of MA/92/0546) – APPROVED/GRANTED WITH CONDITIONS

MA/92/0546 - Erection of 5no. 30ft x 10ft (10mx3m) polytunnels for horticulture - REFUSED

MA/92/0545 - Erection of 5 no. 30ft x 10ft (10mx3m) polytunnels for shelter of poultry (ducks and geese) - REFUSED

There has also been a history of enforcement investigations into alleged breaches of planning control at the site, mostly centred around residential occupation of and the number of units on site, however, no formal enforcement action has ever been taken. Where these matters have involved breaches of planning control they have also in the main been resolved through later planning permissions.

3. CONSULTATIONS

3.1 Ulcombe Parish Council: "... wishes to see the application refused as it has confidence in the decision by MBC in 2003 that the site only has the environmental capacity for 1 mobile and 1 caravan and utility room (condition 2 of the formal decision notice).

The parish council at the time requested that a condition be attached to MA/03/2369 which tied any consent given to the applicant's name only. Condition 1 on the formal decision notice met this and limited occupation to the applicants and their resident dependents living with them – with the site to be removed if neither of the applicants lived there.

MBC refused application MA/05/0831 (for the stationing of an additional 4 mobile homes) because of the significant adverse impact it would have on the character and appearance of the SLA. The parish council also opposed this

further residential development, noting it to be outside the village envelope and within the SLA.

With the additional mobile home and caravan subsequently permitted under MA/05/2260 and a further mobile home permitted under MA/07/2128 there is now consent for a total of 3 mobile homes and 2 touring caravans on this site (both applications were objected to by the parish council). The additional 2 mobile homes being applied for under MA/12/2276 would bring the total to 5 mobile homes and 2 touring caravans. This exceeds not only the limit of 1 mobile and 1 caravan originally imposed under condition 2 of MA/03/2369 but also the number refused by MBC under MA/05/0831 because of the "significant adverse impact on the character and appearance of the SLA". As the above summary shows, the parish council has consistently opposed further development of this site.

Referral to MBC planning committee is requested if you are minded to approve the application".

- 3.2 **MBC Environmental Health:** Recommend approval is granted subject to conditions requiring details of foul sewage treatment; the provision of potable water and waste disposal being submitted for approval, and subject to informatives concerning the site licence; no business use; no habitation of tourers; and foul sewage treatment.
- 3.3 **KCC Highways:** "The additional mobile homes are to be served from an existing access and are not likely to lead to any significant intensification of traffic movements. Therefore I do not wish to raise objection".

4. REPRESENTATIONS

- 4.1 The **Weald of Kent Protection Society** has asked that the application is refused and have commented as follows: "We certainly ask Maidstone BC to refuse this application. The 2003 permission for one mobile home and one caravan appears already to have been considerably exceeded, making it difficult to conclude other than that there has already been site expansion by stealth. Particularly detrimental are the hostile security warnings already in place, clearly likely to deter other people from using and enjoying the area, as well as visually detracting from the landscape. The access road is narrow and unmade. Already breaking up badly, it does not allow passing traffic, and is unsuitable for the significant extra traffic which this application would create. The application gives no indication that the welfare infrastructure will be reinforced to cater for additional people. Overload of systems could easily cause seepage into the adjacent watercourses, as the water table at the location is high".

4.2 **ONE LOCAL RESIDENT** has also commented that, whilst they have no objection in respect of the son, they are concerned about the proposal to accommodate remoter family members. They also offer concern that further expansion of the site will be allowed without any obligation to maintain the shared track, whilst mentioning that such expansion would also continue to erode the rural character of the area and neighbouring property values.

5. CONSIDERATIONS

5.1 Introduction

5.1.1 This application seeks to vary conditions 1 and 2 of permission MA/03/2369, which originally approved the change of use of this land to a mixed use of agriculture and residential for a gypsy family, with the stationing of one mobile home and one touring caravan along with a utility room building. Condition 1 restricts occupancy of the site to the applicant and dependents whilst condition 2 restricts the number and type of caravans at the site. A copy of the committee report and decision notice relating to MA/03/2369 are attached at Appendix 1.

5.1.2 The variations applied for seek to allow the stationing of two additional mobile homes and the occupation of the site (those mobile homes) by residents whom are non-dependant on the original applicant Mrs K Hawes (aka current applicant Susan Hawes) and her husband Mr Hawes. One of those units would be occupied by son William Stacey, who presumably formerly resided on the site as a dependant of Mrs K Hawes and Mr Hawes, and who as a result of now getting married requires separate accommodation with his wife Sally Ann Lee. The other unit would be occupied by Mrs K Hawes' (Susan Hawes) niece Sarah Smith and her two very young children. According to the applicant, Sarah Smith has parted from her husband, has nowhere else to live, and is currently residing on the site in the existing accommodation.

5.2 Site Description & Planning History

5.2.1 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 to the south of that via a trackway that also comprises public footpath KH330 that runs along the eastern boundary of the site and larger holding.

5.2.2 The application site comprises a gypsy and traveller site on part of a smallholding of some 27 acres that was originally granted a permanent but

personally restricted permission at Planning Committee in February 2004, under application MA/03/2369. This original consent approved a mixed agricultural and residential use for a gypsy family in accommodation comprising one mobile home and one touring caravan, occupied only by the persons listed in condition 1 attached to MA/03/2369. A later permission then granted a personally restrictive extension to the south of this site for one further mobile home and one touring caravan (MA/05/2260 refers), after an earlier application had refused four further mobiles over the same extended site. Approval was then also given for a variation of condition 2 of original permission MA/03/2369 to allow an additional mobile home on that site (MA/07/2128 refers). Although no further personal occupancy condition was imposed on MA/07/2128, all the lawful mobile homes on site were restricted by a further condition of that approval to occupancy by gypsies and travellers. This application went before Planning Committee in September 2008. A copy of all these decision notices and the committee report are also attached as appendices. The original and extended sites combined now therefore have a total permitted number of three mobiles and two tourers, with only the mobile home and tourer on the extended site having a personally restrictive condition.

- 5.2.3 The original MA/03/2369 site to which this application refers is a triangular plot with an area of approximately 1700m². It is located against the eastern boundary of the wider holding with public footpath KH330, which also serves as the vehicular access to the site. Indeed, the entrance to the site is from this footpath. The rectangular MA/05/2260 extension to the south end of the original site is approximately 3000m² in area. The mobile home, tourer and associated hardsurfacing, development and paraphernalia on this extended part are located at its northern end adjacent to the original site and appear very much "as one" with it. Other than that it is largely grassed/pasture. On the original site, the two mobile homes are located down the west side, which is generally the area covered with much of the hardsurfacing, development and paraphernalia, including small utility/shed buildings, and also a tourer. This is all very much as shown on the site layout plan submitted with this application. The site frontage with the public footpath comprises trees and hedgerow. The rear (west) and north boundaries of the original and extended sites are fairly open from the larger area of the holding, and beyond to a limited extent, to the south.
- 5.2.4 Land to the south, east and west of the site and holding is also in agricultural use, along with associated residential use to the south and west. There is also a lawful gypsy site known as Hawthorn Farm (MA/09/0208 refers) to the south-east on the opposite side of the public footpath, which only has restrictions on the number of caravans. There is also a collection of dwellings beyond that further south down the footpath. There is also a residential dwelling adjacent north of the holding, whilst the hamlet of Pye Corner is fairly close to the north-east. Ulcombe village is 0.75km away to the north-west.

5.3 Proposal

- 5.3.1 Permission is sought for the stationing of two further mobile homes on the land covered by MA/03/2369, which permitted one mobile home and one touring caravan. This would require varying condition 2 of MA/03/2369, which has already been varied once by MA/07/2128 allowing a further unrestricted mobile home in addition to removing its personally restrictive condition. To keep matters straightforward, I intend to consider this as a new application for the site covered by MA/03/2369 that is applying for permission for the combined total of the two existing and two proposed mobile homes and the one existing tourer, with the fallback position being that the existing mobiles and tourer would still have permission anyway.
- 5.3.2 It is also proposed under this application to vary the personally restrictive occupancy condition 1 of original permission MA/03/2369. However, with later approval MA/07/2128 effectively having already overridden and removed that condition, there are really no further issues to consider in that respect.
- 5.3.3 The additional two mobile homes proposed would be sited in locations along the western boundary in the developed part of the site, to the north and south of the existing two mobile homes on the original site. The southernmost proposed additional mobile home would be located just north of the mobile home and tourer on the extension to the original site. The northernmost proposed additional mobile would be close to the entrance to the site from the public footpath. These are areas served by existing hardsurfacing.

5.4 Principle of Development & Policy Background

- 5.4.1 Clearly, a gypsy and traveller site has been accepted by the Council on this land through the permissions already granted which, combined over the original and extended site, amount to a maximum number of five caravans, of which no more than three shall be static caravans or mobile homes. The relevant conditions to restrict the number of caravans at the site have been previously imposed in the interests of preserving the character and appearance of the surrounding area and countryside in accordance with Local plan policy.
- 5.4.2 The occupation of this "original" site is simply restricted to gypsies and travellers by virtue of MA/07/2128. Although the extended site granted under MA/05/2260 does have an occupancy condition restrictive to the applicant, this land is outside that subject to the current application.
- 5.4.3 As such, the main considerations are therefore whether the combined total of the two existing mobile homes and tourer plus the two proposed additional

mobile homes on the original site, in conjunction with the further mobile home and tourer approved on the extended site, would result in unacceptable visual harm to the countryside, including the designated Special Landscape Area.

5.4.4 In terms of policy, 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"

5.4.5 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.

5.4.6 Work on the Local Plan is progressing; however there is, as yet, 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 wifeship 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

5.4.7 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. However, an amended target was agreed by Cabinet on 13th March 2013 of **187 pitches** (30 additional pitches) to reflect the extension of the new Local Plan period to 2031.

5.4.8 The Local Development Scheme approved by Cabinet on 13th March 2013 also 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.

5.4.9 Draft policy CS12 of the emerging Local Plan (Cabinet agreed 13th March 2013) outlines that the Maidstone Borough Council need for gypsy and traveller pitches

will be addressed through the granting of planning permissions and through the allocation of sites.

5.5 Gypsy Status

5.5.1 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."

5.5.2 The gypsy status of the applicant and family on this site has been accepted under the previous applications submitted and permissions granted. As such, I am satisfied that the variation sought for two additional mobile homes is in respect of genuine additional gypsies or travellers, and that the use of the land for such purposes can be adequately secured by way of conditions.

5.6 Need for Gypsy Sites

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

5.6.2 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

As outlined above, an amended target was agreed by Cabinet on 13th March of **187 pitches** (30 additional pitches) to reflect the extension of the new local plan period to 2031.

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

- 46 Permanent non-personal permissions
- 8 Permanent personal permissions
- 0 Temporary non-personal permissions
- 26 Temporary personal permissions

Therefore a net total of 54 permanent pitches have been granted since 1st October 2011.

5.6.4 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.

5.7 Personal Circumstances

5.7.1 The current application seeks to vary condition 2 attached to MA/03/2369 in order to allow the stationing of two more mobile homes on the site for separate accommodation for the applicant's son William Stacey and his now wife Sally Ann, and for the applicant's niece Sarah Smith (who has recently parted from her husband) and her two young children. All these persons currently reside on the site in the existing accommodation but require separate units for practical reasons. Given the maturation of younger members of the family, along with the natural growth of the family groups within the unit, it is therefore considered that the variation to allow further mobile homes for occupation by (but not restricted to) this family who have historically resided on the site is acceptable.

5.7.3 As previously explained, although this application also seeks to vary the personally restrictive occupancy condition 1 on MA/03/2369, this is not necessary as later permission MA/07/2128 for an additional unrestricted mobile on the original site also replaced that condition with a further condition restricting occupancy to gypsies and travellers only.

5.8 Visual Impact

5.8.1 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 National Planning Policy Framework and clearly under Maidstone Borough-Wide Local Plan policy ENV28.

5.8.2 The site is already well established and benefits from a permanent consent, so it needs to be considered whether the two additional mobile homes would result in unacceptable harm to the landscape. It has previously been considered that this site is well screened (from medium and long range views) by a backdrop of

existing buildings, trees and hedgerow to the north and west, and by developing and maturing trees along the east boundary with the public footpath. Given that the additional two mobile homes proposed would be within the confines of the developed part of this site, albeit one nearer the entrance, and that they would only result in the combined development being marginally more prominent (from the footpath), I therefore consider that the development now subject to this application would not be unduly harmful as a result.

5.8.3 As aforementioned, one of the additional mobile homes would be sited near to the access to the site from the public footpath. The other would be grouped within the existing mobile homes on this and the extended site. These parts of the site are, however, already developed. My view is that the extent of the existing and approved screening and the scale of the site are such that the additional mobile homes can be accommodated without causing any significant or unacceptable harm to the landscape. No further landscaping would therefore be required, and no further conditions would be necessary to secure the current landscaping.

5.8.4 Although the combined total of five mobile homes on the site and extended site now proposed would be the same as the number previously proposed and refused under MA/05/0831, the additional four mobile homes subject to that application were proposed on the extension to the site to the south where they would have represented a significant visual incursion into the countryside and SLA with the resultant adverse visual impacts, whilst these four mobiles now subject to this application are in the already developed original part of the site where they would be less visually intrusive.

5.9 Residential Amenity

5.9.1 The wider holding that this application site forms part of is bounded by farm/small holdings with a residential presence to the south and west, whilst there is also a residential property to the north, an authorised gypsy and traveller site on the opposite side of the footpath further south, and a small cluster of dwellings further south beyond that. None of these are, however, directly adjacent to the application site, and no residential amenity will therefore be adversely impacted as a result of the subject development. It is in any case an existing lawful gypsy and traveller site, and there is therefore no reason to expect that the domestic activities that would result from the additional two mobile homes would result in any undue harm to the residential amenity of the occupiers of those properties. Nonetheless, any excessive noise from the site that does have a significant impact could be dealt with under Environmental Health legislation.

5.10 Highways

5.10.1 It is considered unlikely that the additional two mobile homes would lead to a significant intensification of traffic movements, and therefore the development is not expected to result in any harm to highway safety.

5.11 Other Matters

5.11.1 No ecological matters would result from the stationing of these two additional mobile homes on this existing developed site.

5.11.2 No details have been submitted of foul sewage treatment, so a condition should therefore be imposed requiring such to be submitted, as suggested by the Environmental Health Officer in their comments.

5.11.3 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. It also needs to be taken into account that this is already a lawful gypsy and traveller site.

5.11.4 The subject development would not, when combined with other gypsy sites in the immediate vicinity, dominate the settled community. These consist of only the existing lawful site and Hawthorn Farm just to the south on the other side of the trackway.

5.11.5 I consider that appropriate conditions should once again be imposed limiting the total number of caravans and mobile homes; restricting their occupation to gypsies and travellers; and preventing any commercial activity on the site (as per the original MA/03/2369 permission).

5.11.6 The matter of potential damage to the trackway serving the application site and other property as a result of the increased development of this site has been raised in representations made. However, this is not a planning concern.

6. CONCLUSION

6.1 It is not considered that the variation of condition 2 of MA/03/2369 to allow two additional mobile homes to be stationed on the site would result in any significant additional visual or other harm. In the context of a growing family the variation of the condition to allow occupation of the site by the applicant's son

and his wife in one further mobile home, and by the applicant's niece and her young children in another further mobile home, is acceptable. A further condition should be imposed restricting the total number of caravans on this site originally covered by MA/03/2369 to five, of which no more than four shall be mobile homes.

- 6.2 A gypsy and traveller restrictive occupancy condition is also appropriate but given that the site currently has no other further restrictive occupancy conditions then none further are appropriate.
- 6.3 A condition preventing any commercial activity on the site is also appropriate.
- 6.4 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.
- 6.5 The development would not have any adverse impact on nearby residential amenity.
- 6.6 The application site is considered to be in a sustainable location, in the context of gypsy and traveller development and the existing lawful site, that is not so remote from services and facilities to justify a refusal.
- 6.7 The application development, when combined with other gypsy sites in the vicinity, does not dominate the settled community.
- 6.8 The application development does not lead to any increased risk to highway safety.
- 6.9 A conditions can be imposed to secure the submission of details of foul sewage treatment.
- 6.10 This development would not result in any adverse impact on ecology.
- 6.11 There is a current need for gypsy and traveller sites as identified by the revised GTAA.
- 6.12 There are no other significant planning issues that would warrant refusal of the application.
- 6.13 I therefore recommend that permission is granted subject to conditions. Being an application to vary conditions of the original consent, and therefore in effect creating a new permission, I propose further conditions as detailed above.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The site shall not be used as a caravan site by any 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 policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan (2000).

2. No more than five caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than four 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 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.

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

Reason: To preserve the character and appearance of the surrounding area and countryside in accordance with policy ENV28 of the Maidstone Borough-Wide Local Plan.

5. If the use hereby permitted ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings and buildings shall be removed;

Reason: To safeguard the character and appearance of the countryside in

accordance with Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan.

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.

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 there are no overriding material considerations to indicate a refusal of planning consent.