

APPLICATION: MA/12/0152 Date: 28 January 2012 Received: 27 June 2013

APPLICANT: Mrs Olive Lee

LOCATION: LITTLE CLOCK HOUSE, GEORGE STREET, HUNTON, MAIDSTONE, KENT, ME15 0RE

PARISH: Hunton

PROPOSAL: An application to remove conditions 1 and 2 and vary conditions 3 and 4 of appeal decision dated 29th November 1995 in order to allow permanent unrestricted occupancy by gypsies and travellers and allow the stationing of five caravans (including one tourer) and the parking of four commercial vehicles.

AGENDA DATE: 19th September 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 Parish Council

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/01/0469 – Removal of caravans and outbuildings and construction of bungalow – Refused 22 May 2001, Appeal Dismissed 31 December 2001

MA/94/0907 – Renewal of temporary permission granted under MA/91/0276 to site a twin unit mobile home and retain existing hardstandings, lavatory, sheds and front fence – Refused 3 February 1995, Appeal Allowed 29 November 1995. This permission granted on appeal was temporary insofar that it was granted for the benefit of only the appellants Mr J Lee (Snr) & Mrs O Lee and for the period during which the site was occupied by one of those persons.

MA/92/1070 – Stationing of additional mobile home – Refused 25 September 1992, Appeal Dismissed 21 December 1993

MA/91/0276 – Renewal of planning permission MA/79/0941W for the siting of a twin unit mobile home and retain existing hardstandings, lavatory, sheds and front fence – Approved 28 June 1991

MA/82/0549 – Timber storage shed – Approved 4 June 1982

MA/79/0941 – Stationing of a twin unit mobile home, and retention of existing hardstandings, w.c., storage shed and front fence – Approved 30 August 1979

MA/76/0582 – Stationing of two residential caravans – Refused 22 June 1976

MA/74/1236 – Stationing of caravan during winter and parking during summer – Refused 26 March 1975

Enforcement action has also been taken against the following developments on the site which has included the applicant and her late husband (although this has where applicable been overtaken by the later permissions/appeal decisions mentioned above):

414/119/02 – Continued use of land for stationing of residential mobile home and erection of storage shed – Enforcement Notices issued May 1995, Appeals Allowed November 1995 (jointly with MA/94/0907)

414/119/02 – Additional mobile home – Enforcement Notice issued November 1992; Appeal Dismissed December 1993

414/119 – Failure to comply with condition requiring use of land for stationing of residential caravans to cease – Enforcement Notice issued September 1979.

414/119 - Operational development such as sheds, hardstanding and fence – Enforcement Notice issued July 1977

414/119 – Stationing of two residential caravans and associated operational development such as sheds, hardstanding and fence – Enforcement Notices issued August 1976

3. BACKGROUND

- 3.1 This application has been significantly altered in its form, after it was found that the original submissions were technically incorrect. Although it retains the same reference number as the original application it is, in effect, now a fresh proposal based on the latest details submitted in July 2013.

- 3.2 The original proposal was for a full planning application to extend the existing lawful gypsy site. However, after it became apparent that the "extension" area involved was covered by the existing approval allowed at appeal, the application was revised so that it instead correctly applied to vary/remove conditions attached to that appeal decision in order to station the required further caravans. These submitted revisions also now omit the personal need element for the applicant's grandchildren and their immediate families, with the application now being for unrestricted gypsy and traveller occupation. It also now proposes the parking of four commercial vehicles. Both of these matters also require varying/removing conditions attached to the appeal decision.

4. CONSULTATIONS

- 4.1 **HUNTON PARISH COUNCIL** – commented on the original submissions as follows:

"I can advise that Hunton Parish Council wishes to see the application REFUSED and request the application is reported to Planning Committee. The reasons for this recommendation are detailed below.

Visual impact

Little Clock House is situated in the Greensand Ridge Special Landscape Area. Policy ENV34 of the Maidstone Borough Wide Local Plan 2000 states: "in the North Downs, Greensand Ridge, Low Weald and High Weald Special Landscape Areas, as defined on the proposals map, 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." Any further development of this site, as proposed in the planning application, would have a detrimental impact on the surrounding countryside and be out of keeping in a Special Landscape Area.

Little Clock House is surrounded by listed and period buildings, including Grade II* listed building Stonewall Farmhouse and Grade II listed buildings Clapper House, Hemsley Cottage, the cart shed adjacent to Hemsley Cottage, The Old Bull House, Stonewall Barn and Whittingstall Cottage. Policy BE6 of the South East Plan 2009 states: "...local authorities and other bodies will adopt policies and support proposals which protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to local and regional distinctiveness and sense of place..." According to the South East Plan, historic environmental designations in the South East include listed buildings. The existing development is visually intrusive and out of keeping with the surrounding area and buildings. The proposed development of the site would further adversely affect the setting of these buildings of special architectural and

historic interest and would detrimentally affect their character. The enclosed photograph from Google Maps shows Little Clock House surrounded by listed and historic buildings.

Planning history

Mrs O Lee and Mr J Lee, the grandparents of the applicants, were given temporary consent to station a twin mobile home, hardstandings, WC, storage shed and front fence on the site on 30th August 1979 (ref 79/0941). This temporary consent was renewed with conditions on 28th June 1991 (ref 91/0276). A further application for renewal of temporary consent was refused by Maidstone Borough Council on 3rd February 1995 (ref 94/0907), but was subsequently allowed on appeal by the Planning Inspectorate. The Planning Inspectorate decision letter dated 29th November 1995 states: "...the consequences of not allowing your clients to remain on this land could well be more serious in terms of homelessness and other factors than the limited adverse impact which would be likely to result from their continued occupation..." The decision to allow the appeal was based, in large part, on the fact that Mr and Mrs Lee would become homeless if the renewal of the temporary consent was refused. As the current applicants are the grandchildren of Mr and Mrs Lee and currently live elsewhere, there would be no issue of homelessness should the application be refused.

Although the Planning Inspectorate allowed the appeal, a number of conditions were imposed. The first three conditions, set out in the decision letter, are as follows:

1. The permission hereby granted shall enure solely for the benefit of the appellants Mr J Lee (Snr) and Mrs O Lee, and shall be for a limited period being the period during which the site is occupied by one of the above named persons;
2. When the site ceases to be occupied by Mr J Lee (Snr) or Mrs O Lee the use hereby permitted shall cease and the mobile home, hardstandings, lavatory, sheds, front fence and all other items brought onto the land in connection with the use shall be removed;
3. No more than one twin mobile home and one touring caravan shall be stationed on any part of the site at any one time"

It is clear from the conditions imposed that the temporary permission is solely for Mr and Mrs Lee while they occupy the site and, once they no longer remain on the site, the land should be returned to its original agricultural state. Mr J Lee has subsequently passed away, leaving Mrs O Lee on the site. Once Mrs O Lee ceases to occupy the site, it should be returned to its natural state, otherwise

there will be a perpetuation of a permission which was only ever meant to be temporary and was only relevant to the original two residents.

Gypsy lifestyle

The children of Mr J Lee and Mrs O Lee live in conventional houses and their children, the applicants, were brought up in houses. Although Mr and Mrs Lee may have had gypsy origins, their children chose to move away from the gypsy life. The applicants may have gypsy ancestry, but this does not mean that they have led or are leading a nomadic gypsy lifestyle and should not be provided with permission on this basis.

Need for gypsy sites

The Parish Council is aware that Maidstone Borough Council considers there to be a need for additional gypsy sites within the borough. However, there are already a number of gypsy sites in the parish of Hunton.

The need for gypsy sites should not be used as a reason to grant this permission, when it is clearly outweighed by the harm that will be caused to the surrounding countryside and buildings”.

- 4.2 Following the additional information submitted on the intended occupants of the site in February 2013, **HUNTON PARISH COUNCIL** then made further comments as follows:

“I can advise that the recommendation from the Parish Council remains as stated in my letter to you dated 6th March 2012, that the Parish Council wishes to see the application REFUSED and requests that the application is reported to Planning Committee.

The detailed reasons for this recommendation are set out in the letter dated 6th March 2012, which is attached. However, the Parish Council would like to draw your attention to the following points:

Gypsy lifestyle

The additional details on the application which were sent to the Parish Council are a letter dated 4th February 2013 from the applicant's agent, Philip Brown Associates; an email from yourself dated 6th February 2013 asking for further information on the occupants of the proposed new mobile homes on the site; and a letter dated 20th February 2013 from the applicant, Mrs Olive Lee in answer to your email.

This additional information does not provide any kind of evidence that the applicant's grandchildren, who would live in the proposed additional three mobile homes, lead a nomadic gypsy lifestyle. In fact:

- The applicant has lived on the site for nearly 40 years and has not lived a nomadic gypsy lifestyle, remaining at Little Clock House.
- The children of the applicant live in conventional houses and have not lived a nomadic gypsy lifestyle.
- The grandchildren have been brought up in conventional houses by their parents, and according to the applicant's letter, "have been married and christened at the local church, and have attended nursery school, primary school and senior school all in Hunton and the surrounding areas". The agent's letter states "they have lived all of their life in the Maidstone area".

The applicant may have gypsy origins, but her grandchildren do not appear to live a gypsy lifestyle and permission should not be granted to place three more mobile homes on the site on the basis of gypsy status as they do not have this status.

Impact on surrounding buildings

The Parish Council is very concerned about the impact the proposed development would have on the surrounding area, and particularly the surrounding buildings. The original Design & Access Statement sent to Maidstone Borough Council on 28th January 2012 states: "In this case, the proposed development would not harm the character or appearance of the locality...and there are no nearby residential properties that are likely to be affected by the development". This is completely untrue as Little Clock House is surrounded by listed and period buildings, including a Grade II* listed building and several Grade II listed buildings. The current site is a visually intrusive feature in a landscape containing these historic buildings and the proposed development would significantly detract further from the setting of these buildings. Conserving the historic environment must surely be of paramount importance.

It is for these reasons and those stated in the attached letter that the Parish Council recommends to Maidstone Borough Council that this application is refused".

- 4.3 Following the latest significant alterations to the form of the application in July 2013, **HUNTON PARISH COUNCIL** then further commented as follows:-

"I can advise that Hunton Parish Council wishes to see the application REFUSED and request the application is reported to Planning Committee. The reasons for this recommendation are detailed below.

Planning history

Mrs O Lee and Mr J Lee were allowed by the Planning Inspectorate to renew their temporary occupancy on the site on appeal in November 1995. The decision to allow the appeal was based, in large part, on the fact that Mr and Mrs Lee would become homeless if the renewal of the temporary consent was refused. The conditions imposed by the Planning Inspectorate made it clear that the permission was granted solely for Mr and Mrs Lee while they occupy the site and, once they no longer remain on the site, the land should be returned to its original agricultural state. Mr J Lee has subsequently passed away, leaving Mrs O Lee on the site. Once Mrs O Lee ceases to occupy the site, it should be returned to its natural state, otherwise there will be a perpetuation of a permission which was only ever meant to be temporary and was only relevant to the original two residents.

The original application MA/12/0152 (dated 28th January 2012), submitted by Mrs O Lee, was for change of use of land to provide an extension of the existing caravan site to accommodate three additional gypsy families in three mobile homes. The three additional gypsy families referred to are the applicant's grandchildren and their families.

This most recent application does not actually specify who the gypsies residing on the site would be, other than in the accompanying letter from the applicant's agent which again refers to the applicant's grandchildren. However, the application is essentially requesting the development of a new, permanent gypsy site which could be inhabited by anyone in the future.

Visual impact

Little Clock House is situated in the Greensand Ridge Special Landscape Area. Policy ENV 34 of the Maidstone Borough Wide Local Plan 2000 states: "in the North Downs, Greensand Ridge, Low Weald and High Weald Special Landscape Areas, as defined on the proposals map, 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." Any further development of this site, as proposed in the planning application, would have a detrimental impact on the surrounding countryside and be out of keeping in a Special Landscape Area.

Little Clock House is surrounded by listed and period buildings, including Grade II* listed building Stonewall Farmhouse and Grade II listed buildings Clapper House, Hemsley Cottage, the cart shed adjacent to Hemsley Cottage, The Old Bull House, Stonewall Barn and Whittingstall Cottage. Policy BE6 of the South East Plan 2009 states: "...local authorities and other bodies will adopt policies and support proposals which protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to local and regional distinctiveness and sense of place..." According to the South East Plan, historic environmental designations in the South East include listed buildings. The existing development is already visually intrusive and out of keeping with the surrounding area and buildings. The proposed number of units on the site would compete with the listed buildings, causing further harm to their setting and detrimentally affecting their character, especially Grade II* listed Stonewall Farmhouse.

Gypsy lifestyle

The children of Mr J Lee and Mrs O Lee live in conventional houses and their children were brought up in houses. Although Mr and Mrs Lee may have had gypsy origins, their children chose to move away from the gypsy life. The grandchildren of the applicant may have gypsy ancestry, but this does not mean that they have led or are leading a nomadic gypsy lifestyle and there is no reason why the applicant should be given permission to house them on the site on this basis.

Need for gypsy sites

As MBC is still developing its Local Plan, a key material consideration for this application will be the Planning Policy for Traveller Sites (PPTS), produced by the Government in 2012.

Paragraph 11 of the PPTS states that local planning authorities should ensure that traveller sites are economically, socially and environmentally sustainable. The Little Clock House site is not sustainable for the following reasons:

- The site is located some distance from local shops and other services such as healthcare. The nearest village with a reasonable range of facilities is Coxheath, but access is along unlit country roads with no footpath, so access by foot is unlikely, particularly in bad weather or at night. There is also a very limited bus service between Hunton and Coxheath, other villages and Maidstone, meaning that the only method of travel to and from the site is likely to be by private car, which would not be environmentally sustainable.
- Hunton Primary School has limited primary school places and attendance at any other school would require a car journey.

- There would be additional pressure on the local highway infrastructure. George Street cannot sustain the proposed development as it is a narrow country lane with no pavements, a ditch running alongside and poor visibility. The road is inadequate to support the addition of four commercial vehicles regularly coming and going, as well as the private vehicles the families are likely to own. It would be hazardous to the local community, particularly those walking or cycling.
- The request to allow four commercial vehicles to occupy the site suggests that commercial activity is likely to be undertaken on the site. This is completely unacceptable in a quiet residential area and is harmful to the environment.
- The site is in an area at risk of flooding and therefore not best suited for caravan dwelling.

Paragraph 23 of the PPTS states that local planning authorities should strictly limit new traveller site development in open countryside and should ensure that sites in rural areas do not dominate the nearest settled community and do not place undue pressure on the local infrastructure. A gypsy site with five pitches and commercial activity, including four commercial vehicles, would certainly compete with and dominate the surrounding dwellings in the area, particularly as many are of listed building status. It will also place pressure on the local infrastructure as described above.

There is no clear reason why the applicant's grandchildren and their families need to settle in this location and no justification for the need for a permanent development on the site to accommodate them. Although Maidstone Borough Council needs to find additional gypsy sites within the borough, this need should not be used as a reason to grant this permission, when it is clearly outweighed by the harm that will be caused to the surrounding countryside and buildings and by the fact that the Little Clock House site is not a sustainable location for a permanent gypsy site".

- 4.4 **MBC CONSERVATION OFFICER** commented on original submissions as follows:-

"The site already seems to be occupied by a number of buildings and parked lorries which can be glimpsed from East Street in views which include the listed Stonewall Barn but the impact on its setting is minor. There would be no significant visual impact on the settings of listed buildings in George Street. I **RAISE NO OBJECTION** to this application on heritage grounds subject to a condition requiring the planting of screening to the south and east boundaries of the site".

- 4.5 In respect of the latest alterations to the form of the application, **MBC CONSERVATION OFFICER** has also made further comments as follows :-

"The site has been used for gypsy accommodation since the mid 1970s, and until now has been held on a number of temporary or personal planning permissions many of which were granted on appeal. In 1977, in granting temporary permission, the Inspector noted that "I am unable to accept that a caravan site, however inconspicuous and well cared for, is an appropriate addition to an attractive group of village houses... I consider that the two cannot exist in harmony on a permanent basis".

At a further appeal in 1981, the Inspector concurred that permanent use as a caravan site was not appropriate.

A third Inspector in 1992 was even more specific regarding the impact of the use on nearby listed buildings, saying that "I found the mass, form and design, as well as the colour, of the mobile homes and the fir screening of the rear part of the site to form an alien feature in the rural setting of the listed buildings in this part of the hamlet". He found the additional mobile home which formed the subject of that particular appeal to add materially to the intrusive impact on the countryside and found that the use of the rear area of the site to support various business enterprises to also incrementally add to this impact by the introduction of an industrial character. He reiterated previous Inspectors' opinions, feeling that there were "...strong and convincing reasons why this site is unsuitable for permanent residential occupation".

Since 1995 the site has been occupied on the back of a permission granted on appeal against the refusal of permission under planning application MA/94/0907. One of the Council's grounds of refusal for this application was the impact of the use of the site on the setting of nearby listed buildings. It is the conditions imposed on this permission which the current application seeks to remove or vary.

In making his decision on this appeal, the Inspector in 1995 made some specific comments regarding the impact of the site's use at the time on the setting of listed buildings, saying that "I am not convinced that retaining the existing features ...will have any adverse impacts in this regard, due to the low profile of the structures involved and the very limited aspects from which the appeal development might be seen. To the extent that vistas might be obtained it seems to me that any adverse consequences could be reduced to an acceptable level by the introduction of further landscaping..."

Whilst I would not disagree with this assessment on the basis of what was on the site in 1995 (a twin-unit mobile home and two sheds on the eastern section of the site and a touring caravan and two buildings on the western half), what is now proposed is a significant escalation of development. Previous planning inspectors have been consistent in their views that the site is not suitable for

permanent use as a gypsy and traveller site and all permissions have been granted on the basis of the personal needs of Mr. J Lee (now deceased) and Mrs. O. Lee (who still resides at the site). The last appeal decision in 1995 imposed a number of conditions which included one which made the permission personal to Mr. J Lee (senior) and Mrs. O. Lee and required the use of the site to cease and for it to be cleared when they ceased to occupy it; other conditions restricted the number of units on the site to one twin-unit mobile home and one touring caravan and the number of light commercial vehicles to be kept on the site to one. In addition, extra landscaping was to be carried out in accordance with an approved scheme (I am unsure whether this requirement was ever satisfied).

What is now proposed is a permanent and unrestricted use of the site for the stationing of five residential caravans and four commercial vehicles. The special needs of the Lee family therefore seem to no longer apply, and these have been crucial to previous appeal decisions. What is now proposed is a significant intensification in the use of the site, not only in terms of the number of caravans and people living there, but also in the number of commercial vehicles allowed to be kept on the site. Past experience has shown that the restriction imposed by the condition on MA/94/0907 regarding the parking of only one such vehicle on the site has not always been observed, and the commercial vehicles, by reason of their height, can be more visually intrusive than the caravans.

Notwithstanding the comments of the inspector in 1995 regarding the relative lack of visibility of the structures and caravans on this site and their consequent low impact on the settings of nearby listed buildings, it seems to me that what is now proposed is a very different level of development which is likely to have a greater impact than the relatively low key use of the site since the 1970s. In my opinion, therefore, there would be likely to be at least some adverse impact on the setting of nearby listed buildings."

- 4.6 **MBC SPATIAL POLICY** (made the following comments on the original submissions prior to pitch targets being agreed at Cabinet in March 2012 and before the Planning Policy for Gypsy & Traveller Sites 2012 government document replaced Circular 1/2006):-

"There are no specific policies for Gypsy and Traveller accommodation in the Maidstone Borough-Wide Local Plan. The determination of this application should be informed by the national guidance in Circular 01/06 'Planning for Gypsies and Travellers'.

In addition the site falls within the Special Landscape Area identified in the Maidstone Borough-wide Local Plan. Policy ENV34 requires that in these areas particular attention will be given to the protection and conservation to the

quality and character of the area and landscape should be prioritised over other planning considerations.

The particular reason for consulting Spatial Policy on this application is the recent completion of a new Gypsy and Traveller and Travelling Showpeople Accommodation Assessment by the University of Salford. This assessment measures the need for additional pitches in the borough for the period 2011 to 2026. The findings are as follows:

	Oct 2011 – March 2016	April 2016 – March 2021	April 2021 – March 2026	Oct 2011 – March 2026
Pitch need	105	25	27	157

The assessment has measured the future need for pitches taking account of a full range of factors namely households living on unauthorised sites or sites with temporary permissions, concealed households (separate households living together) and the needs emanating from Gypsies living in bricks and mortar housing as well as natural household growth. The study provides an up to date and robust assessment of the need for pitches going forward.

The fact that the need for pitches has been quantified does not, of itself, direct that consent should be granted in this case. The need for sites in the area is identified as one of a number of considerations listed at paragraph 58 of Circular 01/2006.

To note: If granted permanent consent, the proposal would provide accommodation for 3 families. For the purposes of monitoring against the pitch target in the Core Strategy, this would equate to 3 additional pitches.

4.7 **KENT HIGHWAYS** - (on original submissions) comment as follows: "Use is to be made of the existing access onto George Street, Hunton. George Street is a rural lane with restricted width and low vehicle speeds. In view of this I confirm that I do not wish to raise objection to this application".

4.8 **KENT HIGHWAYS** - (on alterations and amendments to application): "The application proposes the removal of conditions 1 and 2 and the variation of conditions 3 and 4 of the appeal decision dated 29th November 1995 in order to allow permanent unrestricted occupancy by gypsies and travellers and allow the stationing of five caravans (including one tourer) and the parking of four commercial vehicles. This will allow for an additional 3 mobile homes over and above the one mobile home and one tourer originally allowed in 1995 the parking of four commercial vehicles instead of the one light commercial vehicle allowed by the 1995 appeal decision.

Access to the site is via an existing established access and there have been no injury crashes within the latest 3 year period. I do not believe that this application would lead to any detriment to highway safety, however, in view of the narrow and rural nature of the lane I would recommend that the size of the commercial vehicles are limited to less than 7.5T."

- 4.9 **MBC ENVIRONMENTAL HEALTH** - (on original submissions) comment as follows: "The site is in a relatively semi-rural area and there is no indication of land contamination based on information from the Maidstone Borough Council's contaminated land database and historic maps databases. The site should be used for residential purposes only and maintained in good order. It should not be used for business purposes, it should also not be used for the use and/or storage of commercial vehicles. Any tourers on site should not be used for habitation. Officially the site should not actually be occupied before all the conditions of the Caravan Sites Licence are met".

They also therefore recommend that approval be granted subject to a condition requiring submission of details of foul sewage treatment for approval prior to occupation, and suggest informatives are included concerning storage of waste and recyclable materials and caravan site licensing".

5. REPRESENTATIONS

- 5.1 Letters of objection have been received from TWENTY TWO local residences in total. These relate to both the original submissions and following additional information, and also the later alterations and amendments to the form of the application. In summary, the objections are based on the following grounds, however, some of these are no longer relevant where they relate to the personal need element of the original submissions. Some also relate to the existing authorised development. :

- * the open nature of the countryside with traditional housing
- * perpetuation of intrusive feature in countryside
- * out of keeping/character with locale and area
- * alien and intrusive feature on raised site
- * detrimental to amenities of countryside
- * brick wall at front of site has replaced native hedge/fence approved
- * non-native tall trees have been planted to screen that are also inadequate
- * solid fencing gives off feeling of isolation/enclosure
- * permission only granted previously for Mr J (Snr) & Mrs O Lee and for temporary period due to identified harm - highlights inappropriate site
- * visual impact on original rural setting including surrounding/nearby listed buildings – traditional setting- views blocked by site and tree screen

- * adversely effect and compromise character of listed buildings, the future of that adjacent could be in jeopardy
- * site is in a flood plain
- * large area of hardstanding which is also non-porous and so contributing to flooding, little/no soft landscaping
- * site already cluttered with the ancillary space required for one mobile home
- * Site too small, would be overcrowded and overdeveloped
- * increase in traffic and commercial vehicles - narrow country lanes with unsuitable visibility and access has restricted visibility
- * possible further increase in numbers of persons and/or caravans on site
- * increase in noise and disturbance
- * other similar permission being sought in Hunton area
- * permission has been refused in past for similar development in local area
- * unsustainable site, not walking distance to shops
- * impact on SLA and AONB
- * previous restriction to Mr & Mrs Lee highlights inappropriate site
- * no specific circumstances to allow this development outside rural towns and villages
- * previous permission was tolerable due to conditions imposed
- * pressure on local facilities and amenities, with inadequate local infrastructure and amenities such as shipping, health services, play areas, schools, buses
- * will not be returned to agricultural land as required on other sites
- * erosion and loss of Grade 2 agricultural land
- * resultant intolerable tensions through fracture of demographic of the area
- * parents of the grandchildren live in houses, only descendants of gypsies, no actual requirement for living in caravans
- * applicant and family not adverse to housing – question gypsy lifestyle
- * no genuine need for the accommodation
- * quiet rural area
- * bought adjoining property as was aware only temporary permission
- * density of development close to adjoining property with resultant noise and disturbance
- * no woodland as shown on drawings to west of site – is actually garden of adjoining property and connected historical buildings could be affected
- * detrimental to value of nearby property
- * reasonable caravan/traveller provision already in locality
- * to allow would contravene Inspector's previous decision
- * site already overlooked by adjoining property
- * floodlighting on site disturbs and not compatible with area
- * conifers inappropriate for area and too high
- * business/commercial use of site in residential area, with storage associated with car sales and storage of general rubbish
- * due to elevated position of site there will overlooking of nearby residential properties

- * insufficient area on site to park and turn vehicles, particularly large ones
- * overconcentration of sites in area
- * impact on human rights of other residents
- * unrestricted use would have far wider impact on adjacent properties
- * size, density and layout would dominate and double /unbalance population of locality if 5 further families to be accommodated
- *housing development previously refused on the site for reasons of visual impact on countryside, SLA and nearby listed buildings, and being detrimental to character and amenities of the area.
- *Danger to walkers, cyclists and horse riders on George Street through increased traffic from an additional 4 or 5 families
- * Continual violation of conditions relating to commercial use on existing permission
- * No specific need for gypsy site accommodation is addressed, the application is for low cost housing
- *unsuitable site for residential development – would 5 houses be allowed?
- *mixed residential/commercial use would be dangerous for occupants of site
- *types of commercial vehicle could involve lowloaders
- *Raised fire risk from development as adjacent to thatched listed building
- *Stonewall Barn would be isolated as a result as would be separated from agricultural setting and therefore prevented from being converted.

5.2 **CPRE** also made comments prior to and since the latest alterations to the application. They state that they trust the application will be refused. They comment that this site is in a minor residential area with 8 listed buildings in close proximity which would not normally be considered acceptable for a gypsy and traveller site; that it lies within a Special Landscape Area; that it is of a wholly inadequate size for the proposed development; that the Inspector required it to be returned to agricultural use when Mr & Mrs Lee were no longer in occupation; that the development would be detrimental to the character and amenities of the area; that the site is on a narrow road with an exit onto a blind bend; that the family has not led a nomadic lifestyle since Mr & Mrs Lee did so many (37) years ago; that residential properties nearby would be affected; and that if permission were granted for this development "*it would not help towards Maidstone's need for sites as the applicants were not numbered among the truly nomadic community for whom the local settlement policy was introduced and quantified*". In their latest comments made since the alterations they have also expressed concern that the site is to be used for business operations, which they state is entirely undesirable for this residential enclave. They also express concern that, with private cars as well, there will be overcrowding on this small site, and that, as only one touring caravan is proposed, this is an indication that the occupants will not be working away but that the site will be the centre for the business use.

6. CONSIDERATIONS

6.1 Site Description

- 6.2 The land associated with the application site comprises an elevated rectangular plot of land in the open countryside known as "Little Clock House", on the west side of the single track rural highway of George Street in the Parish of Hunton. The site is also within the locally designated Greensand Ridge Special Landscape Area (SLA). Coxheath to the north-east and Yalding to the north-west are the nearest settlements, both around 2.5km distance.
- 6.3 To the north is agricultural land, but in the general south, south-east and south-west directions, including around the George Street/East Street junction to the south, are groups of buildings. These are in the most part residential and in some cases listed.
- 6.4 The residential element of this site is currently confined to the two thirds over an area stretching back around 50m from the frontage. It contains one mobile home on the frontage which has had a conservatory added to its northern elevation and a detached outbuilding constructed to its north-east. All of the site, with the exception of a small portion laid to lawn near the mobile home, is hardsurfaced. The rear part of the site is currently divided from the residential element by close-boarded fencing and is of a "yard" type appearance. It appears to be used for general domestic storage purposes and also for parking/storing vehicles, all apparently associated with the lawful residential use of the site. There are also containers and small timber buildings on the site used in connection with this storage activity, one of the buildings of which is likely to have been that granted under the latest permission for the site on appeal (MA/94/0907 & 414/119/02 apply - see Section 2 for details).
- 6.5 The southern boundary of the application site currently consists of close-boarded fencing of standard height, with the odd conifer behind outside the boundary, whilst there is tall dense conifer planting on the rear (west) boundary and further similar such planting on the back section of the north side boundary.
- 6.6 The application site is some 80 metres deep and 23 metres across.

7. Proposal

- 7.1 The appeal decision from 29 November 1995 allowed the use of this site for the siting of a twin unit mobile home along with the retention of the existing hardstandings, lavatory, sheds and front fence, subject to conditions. This appeal resulted from enforcement notices issued against the same development, and also the refusal of planning permission for the same under MA/94/0907.

- 7.2 This application seeks to remove conditions 1 and 2 that restricted occupancy to the appellants Mr J Lee (Snr) and Mrs O Lee and required the use to cease respectively. It also proposes to vary condition 3 (which only allowed one mobile home and one touring caravan) in order to allow the stationing of five caravans including one tourer, and to vary condition 4 (which only allowed the parking of one light commercial vehicle) in order to allow the parking of four commercial vehicles. The details submitted suggest that the three additional mobile homes would be stationed `side by side' on the currently undeveloped rear "yard" part of the site, backing onto the northern boundary, and would accommodate three additional gypsy families. The original submissions stated that the three families would be those of the three grandchildren of the applicant, however, the June 2013 revisions to the form of the application now propose unrestricted gypsy and traveller occupancy. The proposed development has not taken place.
- 7.3 The submitted layout plan shows a conifer hedge along the north and west boundaries of the site that is confirmed in the submitted Design & Access Statement as existing. The application form also confirms that all fences, hedgerows and hardsurfacing involved are as existing and that no further is proposed in the application.

8. Principle of Development & Policy Background

- 8.1 Clearly, a gypsy and traveller site has already been accepted on this land through the previous appeal decision and the temporary permissions granted prior to that. The relevant conditions to restrict the number of caravans at the site have been previously imposed in the interests of protecting the countryside in accordance with development plan policy.
- 8.2 The occupation of this site is currently subject to an occupancy condition restrictive to the applicant.
- 8.3 As such, the main considerations are therefore whether the combined total of the existing lawful mobile home and tourer plus the three proposed additional mobile homes, and their unrestricted gypsy and traveller occupancy, would result in unacceptable visual harm to the countryside, including the designated Special Landscape Area. The parking of four commercial vehicles applied for also needs to be considered in this respect.
- 8.4 In terms of 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".

8.5 Policy ENV34 of the Local Plan relates to Special Landscape Areas, and the need to protect and conserve the scenic quality and distinctive character of the landscape in these locally designated areas, giving priority over other considerations.

8.6 A key consideration in the determination of this application is the 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.

8.7 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

8.8 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.

8.9 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.

8.10 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.

9. Gypsy Status

9.1 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."

9.2 The original submissions indicated that the intended occupiers of each of the three mobile homes were the three grandchildren of the applicant Mrs Olive Lee and their spouses/partners. They stated that the grandson Wayne Lee has married, the granddaughter Rebecca Lee has married, and the granddaughter Elisha Lee is engaged to be married. Wayne and Rebecca Lee are the children of the applicant's son Wayne Lee Snr, whilst Elisha Lee is the child of the applicant's son John Lee. Neither Wayne Lee Senior nor John Lee still reside at Little Clock House.

9.3 The applicant Mrs Olive Lee has resided at the authorised Little Clock House site since the late 1970's, and both her and her late husband's status as Gypsies has previously been accepted both by the Council and the Planning Inspectorate. The children of Mrs Olive Lee and her late husband, and therefore also their children, also as a direct result have Gypsy status.

9.4 The application has, however, been amended so that unrestricted gypsy and traveller occupancy is now being applied for.

9.5 As such, I am satisfied that the approval sought for three 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.

10. Need for Gypsy/Traveller Sites

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

10.2 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.

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

48 Permanent non-personal permissions

8 Permanent personal permissions

0 Temporary non-personal permissions

27 Temporary personal permissions

Therefore a net total of 56 permanent pitches have been granted since 1st October 2011.

10.4 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.

11. Personal Circumstances

11.1 This application seeks to remove and vary conditions attached to MA/03/2369 in order to allow unrestricted gypsy and traveller occupancy of the site and to allow for the stationing of three more mobile homes on the site. It is likely that this accommodation may be for the three grandchildren of the applicant and their spouses/partners, as indicated in the originally submitted details. These grandchildren are at an age and stage in their lives where it is reasonable that they would desire to leave the family home provided by the children of the applicant. That is their personal need. As their gypsy origin cannot be contested, then the development applied for would seem reasonable, and especially so given the identified need for further such pitches/sites to be made available. Therefore, to reside on an existing lawful site with their grandmother would seem reasonable on that basis. 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.

- 11.2 Although it does seem clear (including from the information submitted with the application) that the three grandchildren of the applicant have at some point resided in traditional housing with their parents, it must also be taken into account that the definition of a gypsy/traveller in the PPTS 2012 does not actually exclude persons that have lived in traditional housing. Further, it is also clear that those grandchildren do now travel and meet the definition, and that they are of gypsy origin.

12. Visual Impact

- 12.1 The three additional mobile homes are proposed to be sited in a location behind the existing authorised mobile home on the road frontage. Although at an elevated location, the visual impact from the public vantage point of George Street directly to the front would therefore be minimal, as screening would be provided by the existing mobile home and its associated paraphernalia. It is not known where the proposed four commercial vehicles would be parked, however, this could be controlled by an appropriate condition setting them away from the frontage of the site, and in this respect I would suggest this restricts their parking to not in advance of the existing mobile home near the frontage. From a northerly direction on George Street, and also similarly from a northerly direction on East Street behind (west) of the site, the conifer line on the north (and also west in respect of the latter) boundary of the application site would also screen all of the proposed development from longer distances. Existing solid fencing and walling on the south boundary would also further reduce the visual impact, along with the solid fencing across the application site in advance of the location of the proposed mobile homes. Appropriate boundary treatment and landscaping conditions would also ensure that either these or alternative fencing and planting could adequately screen the development.
- 12.2 Residential properties and grounds to the south and west of the site would also further help to screen the development from any public vantage points from these directions.

13. Relationship to surrounds

- 13.1 Whilst there are other authorised residential gypsy and traveller sites in the surrounding area, I do not consider that they overdominate the traditional housing. Mulberry Farm on East Street behind the site has permission for five mobile homes and one touring caravan. There is also three mobile homes and a touring caravan on three further plots in Redwall Lane to the north-east of the application site, some 600 or so metres away. However, a combination of these sites and the application site as existing and proposed would not in my view dominate the two dozen or so built dwellings in that same surrounding area.

14. Residential Amenity

- 14.1 Appropriate boundary treatment and landscaping, secured by condition, would ensure that adjoining residential property is not overlooked by the development. The existing conifer tree screen on the north and west boundaries of the application site would assist in that respect, along with an existing fence on the south boundary. It has been raised in representations that properties on the other side of George Street may be overlooked due to the elevated location of the site, however, these are at too great a distance for this to be an issue in my view, whilst in any case the existing authorised mobile home is nearer than the proposed mobile homes to these properties.
- 14.2 The matter of increased noise and disturbance has also been raised due to the proximity of the proposed development to neighbouring properties. However, given the use proposed is residential, and that residential properties are often found located in close proximity with others, then I do not consider that this in particular would justify any refusal on residential amenity grounds. The commercial vehicles would only be parked at the site and would not therefore have any impact on residential amenity, whilst any actual associated commercial activity undertaken at the site is likely to be in breach of planning control.
- 14.3 No issues would result from the proposed development in terms of loss of light or sunlight to adjacent residential property.

15. Sustainability

- 15.1 The nearest local amenities and services are in the villages of Coxheath and Yalding, which are both several miles distance away by road. However, there are bus services available within easy walking distance that provide a link to those villages and beyond. Although representations received have indicated public transport is limited and infrequent, it is nonetheless available. This site is therefore considered sustainable in terms of its location.

16. Highways

- 16.1 Despite concerns raised in representations surrounding visibility at the site entrance and the nearby junction, KENT HIGHWAYS have confirmed that the restricted width of the highway means that vehicle speeds are low generally. They also confirm that this is an established access with no injury crashes within the latest 3 year period. They therefore confirm their belief is that this application would not lead to any detriment to highway safety, however, they do recommend, given the narrow and rural nature of the lane, that the size of commercial vehicles is limited to less than 7.5T. On this basis, I do not therefore

consider that there would be any potential increase in risk to highway safety as a result of this development.

17. Landscaping

- 17.1 The imposition of suitable conditions requiring details of a landscaping scheme to be submitted for approval, and its maintenance thereafter for a five year period, would ensure that a suitable landscaping scheme could be secured in order to assist with screening the development and preventing any impact on adjoining residential amenity.

18. Other Matters

- 18.1 Despite concerns raised in representations, any visual impact on nearby listed buildings that would result is not considered to be significant and is considered to be minor, as confirmed by the Council's Conservation Officer in response to consultation. In response to the revised scheme the Conservation Officer has also made the comment that "there would be likely to be at least **some** adverse impact on the setting of nearby listed buildings", however, that in itself also confirms that any impact would not be significant.
- 18.2 Flooding to the highway of George Street has been mentioned in comments made, and that this is exacerbated by the hardsurfacing on the application site. However, this hardsurfacing has been in place for many years and is lawful, whilst in any case it is not subject to this application. Also, I consider it unlikely that the proposed development would actually lead to any increase in this flooding. Further, the application site is not in a designated functional flood plain.
- 18.3 As this site is almost entirely covered in existing hardsurfacing, then no ecological issues would arise through the proposed development. This also serves to address the concerns raised over loss of agricultural land. This site has been subject to hardsurfacing of a type for many years. Neither would the loss of any of the small aged shed type buildings on the site in order to accommodate the additional mobile homes present any ecological issues.
- 18.4 Suitable waste treatment facilities can be achieved through an appropriate condition requiring details of such to be submitted for approval.
- 18.5 This application applies to remove/vary the personally restrictive occupancy conditions on the 1995 appeal decision. No mention has been made in the submissions of a temporary permission being applied for. However, I have addressed whether any further conditions to this extent would be appropriate, and, given that the development is considered acceptable as addressed and outlined elsewhere in this report, and given the identified need for such sites, I

consider that this site is suitable as proposed for permanent unrestricted gypsy and traveller accommodation. This can also be secured by condition.

- 18.6 Representations made have highlighted that the original permission granted for the site was personal to Mr & Mrs Lee only due to their circumstances, therefore indicating that the site was otherwise unacceptable. However, this permission at appeal was granted as long ago as 1995, since when the matter of need for gypsy sites has evolved as described elsewhere in this report.
- 18.7 The matter of commercial activity at this site and the type of vehicles involved has been raised in representations made, including that any such use also violates the existing permission as allowed at appeal. This is not, however, directly relevant to the development applied for, whilst any such activity is also likely to constitute a separate breach of planning control. It could also be said that allowing further mobile homes on this site may in fact actually use up the majority of the areas that could be used for any such activities. Nonetheless, an appropriate condition can also restrict the size of the four commercial vehicles intended to be parked at the site. In this respect, I would suggest a limit of 7.5T as suggested by KENT HIGHWAYS. In the interest of visual amenity, a further condition could also ensure that the commercial vehicles are not parked within the frontage of the site.

19. CONCLUSION

- 19.1 There is no dispute over the gypsy status of the applicant or any intended occupants. There is also a relevant personal need.
- 19.2 There is an identified need for gypsy and traveller sites.
- 19.3 The site is considered to be in a sustainable location.
- 19.4 This development combined with other gypsy and traveller sites in the vicinity is not considered to dominate the settled community in the immediate local area.
- 19.5 There would be limited visual impact from the development, and this can be further secured through appropriate landscaping and boundary treatment conditions.
- 19.6 The development would not significantly adversely impact on the character and setting of nearby listed buildings.

- 19.7 The development would not result in any adverse impact on residential amenity, which again can be further secured through appropriate landscaping and boundary treatment conditions.
- 19.8 The development would not result in any increase in risk to highway safety.
- 19.9 The development would not result in any increased flood risk.
- 19.10 I therefore recommend planning permission be granted subject to the conditions mentioned elsewhere in this report.

20. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

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 National Planning Policy Framework 2012.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted.

5. 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.

6. 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).

7. 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.

8. No more than four commercial vehicles shall be parked on the land, these shall be limited to 7.5T, and they shall not be parked in advance of 11 metres back from the back edge of the carriageway of George Street.

Reason: in the interests of visual amenity, in accordance with Policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

9. If the use hereby permitted ceases, all caravans, structures, equipment and materials brought 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.

10. No commercial activity, other than the parking of the four commercial vehicles hereby permitted, 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 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.

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