

APPLICATION: MA/12/1793 Date: 1 October 2012 Received: 3 October 2012

APPLICANT: Mr John Lee

LOCATION: MAPLEHURST PADDOCK, FRITTENDEN ROAD, STAPLEHURST,
TONBRIDGE, KENT, TN12 0DL

PARISH: Staplehurst

PROPOSAL: An application for permanent use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables as detailed in letter dated 1/10/12 and drawing no. BS-260-01.

AGENDA DATE: 19th September 2013

CASE OFFICER: Amanda Marks

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, T13
- Village Design Statement: N/A
- Government Policy: National Planning Policy Framework (2012), Planning Policy for Traveller Sites (2012)

2. HISTORY

MA/10/0903 - Continued use for the stationing of a mobile home, touring caravan, day room and stables for a gypsy family. APPROVED 4/11/10

MA/09/0504 - Extension of existing hard surface to create a single vehicle access and erection of 2 no. stables, hay store and tack room. APPROVED 15/05/09

MA/08/2276 - Extension of existing hard surface to create a single vehicle access and erection of 2 no. stables, hay store and tack room. REFUSED 06/02/09

MA/08/0366 - Variation of Appeal decision to allow storage of an additional touring caravan. APPROVED 10/05/08

MA/06/1298 - Erection of a stable block and change of use to keeping of horses.
REFUSED 01/09/06

MA/05/0241 - Change of use of agricultural land to the keeping of horses, plus
access plus stable block. REFUSED 22/03/05

3. CONSULTATIONS

3.1 Staplehurst Parish Council: were consulted and objected to the application and made the following comments:

Councillors considered the application alongside written objections received from residents. Councillor Butcher stated that he felt the application for permanent use was inappropriate at a time when MBC's core strategy was not in place. Councillor Butcher highlighted that the site was susceptible to flooding and had poor access. Councillor Green queried whether the existing dwelling could be considered a mobile home and whether it complied with existing temporary consent, which Councillors agreed should be put to MBC. For these reason Councillors voted to recommend REFUSAL of this application and requested that it be reported to MBC Planning Committee.

3.2 Environment Agency: assessed the application as having low environmental risk and therefore have no comment to make.

Re-consultation

Following re-consultation on some additional details **Staplehurst Parish Council** maintained their objection on their basis that there is no currently adopted gypsy and traveller policy to assess the application against.

4. REPRESENTATIONS

4.1 No representations were received.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site lies in the open countryside within the Low Weald Special Landscape Area. The site is located approximately 30m to the south of Frittenden Road and accessed via Maplehurst Drive.

5.1.2 The application site has previously been subject to conditions of a temporary planning permission and as a result is enclosed by boundary fencing and

landscaping of an indigenous nature to soften the impact. Within the site there is a clearly defined residential area and then land for the keeping of horses and stables is to the west.

5.1.3 To the north of the site is Maplehurst Lodge which comprises a pair of semi-detached cottages at the front of the site and a larger detached dwelling to the rear. Within a 1km radius there is a mix of both dwellings and other traveller sites. Approximately 40m to the south of the application site lies a site known as 'Land to the East of Maplehurst Drive', this site was granted a 5 year temporary planning permission in January 2012. To the south east of this site is 'Perfect Place' which has previously been granted temporary planning permissions but the most recent has lapsed. To the east of Perfect Place and adjoining the curtilage are Parkwood Stables and Three Sons; these sites share an access off Parkwood Lane and have most recently been granted a permanent planning permission at Appeal. There is one further site 'Little Oak Farm' which is the furthestmost traveller site on the western side of Maplehurst Drive – this is the oldest of the sites and subject to a permanent permission for the occupiers.

5.2 Background

5.2.1 This site has a lengthy planning and enforcement history. The site was first granted a temporary planning permission to site a mobile home for a gypsy family, together with a utility building and large area of hardstanding, on Appeal against an enforcement notice in June 2007. Since this time, the permission has been renewed for a further 3 years by the Local Authority and is due to expire in November 2013. The application now seeks a permanent permission to remain on site.

5.3 Proposal

5.3.1 Having been subject to two previous temporary planning permissions, the applicant is requesting a permanent planning permission for the retention of his mobile home, touring caravans, day room and stables (non-commercial use). His family is settled on site and his two children are in the local primary school. To have to leave the site after almost 7 years would cause disruption and stress to his family.

5.3.2 The application does not propose any further development on site. The internal site layout is as has previously been agreed as has the landscaping around the perimeter of the site. The gypsy status of the applicant is also not under question as this has all previously been explored and accepted through previous applications/appeal procedure. The issue has been raised as to whether the mobile home on site meets the legislation in terms of the definition of a mobile home and this will be explored in this report. However, regardless of this, the

application is fundamentally to continue the occupation on site on a permanent basis.

5.4 Principle of Development

5.4.1 There are no saved Local Plan Policies that relate directly to this type of development. Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 (MBWLP) relates to development in the countryside stating that:

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers"

ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing Policy H36 but this is not a 'saved' policy. Policy ENV34 relates to the SLA status of the site and will be considered under the visual impact section of this report.

5.4.2 A key consideration in the determination of this application is Central Government guidance contained in '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.

5.4.3 Work on the emerging local plan is progressing; however there is, as yet, no adopted Local Plan which includes a specific policy relating to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	105 pitches
April 2016 – March 2021	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

These figures were agreed by Cabinet on the 13th March 2013 as the pitch target to be included in the next consultation version of the Local Plan.

5.4.4 Draft Policy CS12 of the Regulation 18 version of the Local Plan approved by Cabinet on 13th March 2013 that the Borough need for gypsy and traveller

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

5.4.5 The timetable for the Local Plan's adoption is July 2015.

5.4.6 Issues of need are dealt with below but, in terms of broad principles Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

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 dependents' 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 was explored at appeal and is not subject to dispute.

5.5.3 Therefore from the previous evidence provided, I consider that Mr Lee complies with the definition of a gypsy as outlined in Government guidance in Planning Policy for traveller sites.

5.5.4 The family has school age children, one of which attends Staplehurst Primary school; the other is at secondary. I do not consider there are any other particular personal circumstances that need to be taken into consideration other than the general need for the family to have a stable base.

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 As stated above, the projection accommodation requirements is as follows –

Oct 2011 – March 2016	105 pitches
April 2016 – March 2021	25 pitches
April 2021 – March 2026	27 pitches
April 2026 – March 2031	30 pitches
Total Oct 2011 – March 2031	187 pitches

5.6.3 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. And hence a shortfall of 49 remains.

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. This explains why the need figure appears so high in the first 5 years.

5.7 Visual Impact

5.7.1 As stated the site lies within a designated SLA. The main purpose of Policy ENV34 is to ensure that the quality of the landscape is protected and enhanced. Generally speaking the preferred location for development of this nature is outside of the AONB, Greenbelt and areas liable to flooding. The level of harm that could be caused on a permanent nature needs to be assessed.

5.7.2 The site is located outside the village boundary of Staplehurst in an area where there is a mix of traveller sites and private dwellings. Views of the site are most prominent from immediately in front of the access. The main residence is located to the southern end of the site and the stable block is at the back of the site at the southern end. The gates have recently been changed from close board to railings thereby allowing views into the site. The driveway apron and within the site is finished in shingle with a substantial well maintained lawn. The site is enclosed by a close board fence stained dark brown – this has been substantially screened from outside the site by the implementation of previous conditions that required landscaping to be undertaken. Therefore when approaching the site from either the north or south of Maplehurst Drive the site is well screened by the hedgerow and the access is not prominent unless within a few metres of the site.

5.7.3 Previously only temporary planning permissions have been granted on this site partly due to the level of visual harm that the development was considered to

have; in addition to this it was hoped that sites would have been identified for families such as this to move to. The case for need is set out earlier in this report and the visual impact has been reassessed at this point in time.

- 5.7.4 Clearly the boundary hedging has taken established itself and it has helped helped the development assimilate into the landscape. The decision of the applicant to change the boundary gates from solid to open views through, does open up the site. However, the planning for traveller guidance does make it clear that such sites should be integrated into the area and not entirely hidden. In this instance the site is well laid out, the stable block fronts the entrance gates and is clearly visible; however it is of appropriate scale, materials and design that it does not detract from the character of the area. The gates are perhaps a little ornate but this in itself is not a strong reason to object; the previous gates were more oppressive and presented a visual barrier to the site.
- 5.7.5 Glimpses of the site can be viewed from Mapehurst Drive when looking in a northerly direction. From the south the roof of the mobile is visible and glimpses of the close board fence can be seen. The site is also well maintained and tidy when viewed from the entrance. The visual impact of the site is very localised to within metres and has limited impact on the wider area and character of the SLA. I consider that the visual impact of the site causes less harm than when the site was first established. In view of the existing landscaping which has been undertaken I do not consider any further planting is required.

5.8 Residential Amenity

- 5.8.1 The closest property is located immediately north of the application site at Maplehurst Lodge. In terms of amenity impact the main dwelling is set sufficiently back that would not be a significant impact in terms of loss of light, privacy or overbearing impact. No.s 1 & 2 are approximately 40m to the north and again are considered to be sufficiently sited in distance terms not to be adversely affected by the permanent occupation of the site.

5.9 Highways Safety

- 5.9.1 The site access is existing and has not been the subject of objection in the past by Kent Highways. Maplehurst Drive is a private road which has fairly recently been subject to resurfacing – I understand as a result of residents clubbing together to fund. Whilst I acknowledge that the Parish Council consider the site to have a poor access and find this statement unfounded and certainly not supported by the Highway Authority.

5.10 Flooding

5.10.1 The application site is located within Flood Zone 2 & 3. It is noted that in the appeal decision relating to the mobile home, the inspector concluded 'the available evidence (on flooding) is not sufficiently strong to justify withholding permission for this reason alone'. The Environment Agency has not raised objection to the proposed permanent use of the site; I therefore raise no objection on flooding grounds.

5.11 Other Matters

Recent appeal decision

5.11.1 A recent Hearing decision relating to the sites known as Parkwood Stables and Three Sons was allowed despite the visual harm they caused. The sites which share an access off Parkwood Lane are in my view considerably more harmful than the site at Maplehurst Paddock. However, despite this the Inspector allowed the appeal on a non-personal and permanent basis. Her reasoning (paragraph 40 of the decision) stated:

'To be balanced against that harm [landscape] and any apparent conflict with planning policies is the substantial and on-going need for many gypsy pitches. This is a problem identified by my colleague in 2006 and, some seven years later, seems no nearer being addressed. Whilst the assessment of need has been updated, there is no five year supply of deliverable sites and no realistic timetable of when such a supply might be identified. In the meantime sites continue to come forward on an ad-hoc basis only. This is far from satisfactory. The acute need for allocated sites to meet the ongoing shortfall of pitches is a matter to which I attribute substantial weight. In this case it outweighs the limited harm I have identified and indicates that, where limited conflict does arise, the application should be determined otherwise than in accordance with the Development Plan.'

5.11.2 In order to strengthen the Council's position at appeal, by allowing the temporary planning permissions on the better/best of the sites to become permanent it will increase the numbers of permissions that can be counted against the need figure. It is my view that this site is well maintained, modest in size of built development and within a reasonable distance to the village of Staplehurst to access services and facilities. The Inspector reasoned in 2006 under the enforcement appeal that a temporary permission was appropriate due to the lack of alternative sites and the identified need within the Borough. Seven years on the situation has not significantly improved and the applicant has children established in local schools. I consider that under the circumstances a permanent, personal permission should be granted, this will help meet the need the Council has to make provision for gypsies and travellers

on a well kept site with localised visual impact. The new Planning Policy for Traveller Sites places additional requirements on the Council in terms of providing a 5 year supply of sites to meet the need and in the absence of this, bearing in mind the scale, location and siting of this site I consider it would be unreasonable to withhold planning permission.

The Existing Mobile Home

5.11.3 There has been some discussion over whether the current mobile home on the site conforms with the relevant Section 13 of the Caravan Sites Act 1968. This section of the Act states that a Twin-unit caravan is as follows:-

is composed of not more than two sections separately constructed and designed to be assembled on site by means of bolts, clamps or other devices; and

is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer)

5.11.4 The original mobile home was replaced after receiving the 3 year temporary permission in November 2010. The replacement structure has the appearance of a mobile home but due to it being constructed on site in more than two halves; its considerable weight and associated attachment by metal feet to the ground it is likely that it does not strictly meet the definition of a mobile. However, from the photographic evidence submitted by the applicant, it is clear that the structure did not follow the pattern of the erection of a normal building. It strikes me that the structure was designed with the intention of being a mobile home for human habitation and certainly this is how they have been marketed. The applicant has confirmed that if necessary the mobile could be moved to demonstrate compliance with the definition for a twin-unit mobile. If the application is permitted then the retention of the existing 'mobile' could be considered in lieu of a traditional mobile and could be subject to a planning condition which prevented any further structures or mobiles.

Sustainability

5.11.5 The site is approximately 1.2km to the village of Staplehurst whereby there is access to a comprehensive range of services, amenities and facilities. Whilst the majority of trips are likely to be by car, the site is considered reasonably sustainable in terms of its proximity to the Rural Service Centre. This is a view supported at appeal by Inspectors on nearby sites.

5.11.6 As mentioned at the beginning of this report, there are a number of other traveller sites within the immediately locality; either accessed off Staplehurst

Lane or Parkwood Lane to the east. The issue of 'dominating the nearest settlement' is always raised on applications such as this. When tested on appeal the overriding view of the Inspectors is that this refers to the nearest settlement. In this instance it is clear that the site – along with others in the locality – would not dominate Staplehurst.

6. CONCLUSION

- 6.1 The site is located in the open countryside and the Low Weald Special Landscape Area. It is considered that the applicant is a gypsy and complies with the definition contained in the PPTS.
- 6.1 The size and scale of the development when combined with others in the locality does not dominate the nearest settled community- a view supported by the Inspector in the appeal decision referred to.
- 6.2 There is a current need for Gypsy and Traveller sites as identified by the updated GTAA.
- 6.3 The applicant has resided on site for some 7 years and therefore any implications for ecology have likely already taken place. The continued use of the site on the same scale is not likely to have further impact on any ecological interests within or close to the site.
- 6.4 The site is considered to be in a sustainable location that is within access of local services, amenities and facilities.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

- 1. No more than one static residential caravan (double unit), as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 or the existing 'mobile structure' stationed on the site, and one touring caravan, which shall not be used for habitation purposes, shall be stationed on the site at any one time.

Reason: To accord with the terms of the application and in the interests of the visual amenity and the impact on the character of the Low Weald Special Landscape Area.

- 2. The use hereby permitted shall be carried on only by Mr Lee, his wife and children.

Reason: Due to the lack of alternative sites available to meet the applicants personal needs.

3. Should the existing 'mobile structure' that is on the site be removed at any time, it shall be replaced with a mobile home that accords with the definition as contained in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

Reason: In order to conform with the use of the site as a gypsy and traveller site.

4. There shall be no lighting erected on site without prior written approval from the Local Planning Authority;

Reason: In the interests of residential amenity and to protect the character of the countryside and Special Landscape Area in accordance with Policy ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside and nearby properties in accordance with policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.

Note to Applicant:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

The application was approved without delay.

The applicant/agent was advised of minor changes required to the application and these were agreed.

The applicant/agent was provided with formal pre-application advice.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.