

MC/13/2047

Date Received: 15 August, 2013

Location: Land Adjoining Four Seasons 10a Matts Hill Road, Hartlip, Sittingbourne, Kent

Proposal: Use of land for the stationing of one mobile home and one touring caravan together with construction of single storey detached building for use as dayroom, hardstanding and cesspit

Applicant: Mr J Hilden

Agent: Mr B Woods W S Planning & Architecture Europe House Bancroft Road Reigate Surrey

Ward Rainham South

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 29 January, 2014.**

**Recommendation - Approval with Conditions**

- 1 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 30 September 2018 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

Reason: To allow the Local Planning Authority an opportunity to assess the effect of the permitted development on the amenities of the surrounding area in accordance with Policies BNE25, BNE32 & BNE33 of the Medway Local Plan 2003.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: J001405 PL01 received on 19 August 2013; PD0213 received on 4 October 2013; and J001405 PL02C received on 2 December 2013.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The use hereby permitted shall be carried on only by Mr John Hilden, Mrs Lisa Hilden and their children, John Hilden, Amy-Leigh Hilden, Henry Ambrose Hilden and Lena Marie Hilden. When the premises cease to be occupied by Mr John Hilden, Mrs Lisa Hilden, John Hilden, Amy-Leigh Hilden, Henry Ambrose Hilden and Lena Marie Hilden, the use hereby permitted shall cease and any materials and equipment brought on to the premises in connection with the use shall be removed.

Reason: To take account of the special circumstances of the submitted application and to regulate and control any subsequent use of the premises in the interests of amenity in accordance with Policy BNE25, BNE32 & BNE33 of the Medway Local Plan 2003.

- 4 No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: To take account of the special circumstances of the submitted application and to regulate and control any subsequent use of the premises in the interests of amenity in accordance with Policies BNE25, BNE32 and BNE33 of the Medway Local Plan 2003.

- 5 Within two months of the date of this permission, a scheme of landscaping (hard and soft) and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following the approval. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application relates to a rectangular area of land with a frontage to Matts Hill Road of approx 15m and a depth of around 40m. To the rear there is an area of woodland which is also owned by the applicant.

The land has been hard surfaced and is currently occupied by a mobile home, a touring caravan and a detached single storey timber building which is shown as a utility room. A cesspit has been provided at the rear of the site. A grassed area has been retained at the front of the site and a play house has been installed on this grassed area. The land is enclosed on three sides by a timber post and rail fence, with a gate at the front.

The application is retrospective and seeks permission for the mobile home, touring caravan, single storey detached building, hardstanding and cesspit. In support of the application, it is submitted that the site will be occupied by the applicant and his wife and their four children (ages 4 - 18). The family are seeking places at local schools.

They have previously relied on family and friends and lived on mobile home parks. The applicant is a delivery driver and the family travel to fairs to trade in horses and vehicles. They wish to settle at the site to care for Lisa's mother who lives nearby.

### **Site Area/Density**

Site Area: 0.06 hectares (0.15 acres)  
Site Density: 17 dph (6.7 dpa)

### **Relevant Planning History**

There have been no planning applications for this site. However of relevance is a planning application for a nearby site known as land adjoining King's Langley, Matts Hill Road.

MC/09/1804                      Change of use for caravan site, stationing of one mobile home, one touring ca  
Refused 19 January 2010  
Appeal allowed 9 December 2010 for a temporary period of three years

### **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**8 letters** have been received raising the following objections:

- Overlooking/loss of privacy;
- Loss of trees and hedges;
- Site is in Strategic Gap and AONB;
- Vehicle access is onto a narrow country lane with poor visibility;
- The appearance is not in keeping with other properties in the road;
- Development in countryside;
- Additional demand on infrastructure;
- Light and noise pollution;
- Additional traffic on Matts Hill Road;

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform. Regard should also be paid to the Department of Communities and Local Government's Planning Policy for Traveller Sites March 2012.

## Planning Appraisal

### *Main Issues*

- The principle of the use;
- Countryside protection policies;
- Design and appearance;
- Loss of trees;
- Neighbour amenity;
- Highway considerations; and
- Planning Policy for Traveller Sites.

The application also raises Human Rights Issues.

### *Principle*

The site is outside the urban area, as defined on the Proposals Map to the Medway Local Plan 2003 (the Local Plan) and in open countryside. It is also in the Strategic Gap, as identified in Policy BNE31 of the Local Plan, the Kent Downs Area of Natural Beauty (AONB) as identified in Policy BNE32, and the North Downs Special Landscape Area as identified in Policy BNE33.

Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it maintains and wherever possible enhances the character, amenity and functioning of the countryside and it offers a realistic chance of access by a range of transport modes. In addition Policy BNE25 identifies seven criteria for assessing proposals for development in the countryside, including that the development essentially demands a countryside location such as agriculture, forestry, outdoor or informal recreation.

The National Planning Policy Framework (NPPF) states that planning should contribute to conserving and enhancing the Natural Environment (Paragraph 17) and protecting and enhancing valued landscapes (Paragraph 109).

The application does not relate to a use essentially demanding a rural location and does not maintain and enhance the character, amenity and functioning of the countryside. It also fails to protect and enhance a valued landscape. Therefore, the application, as submitted, is contrary to Policy BNE25 and the countryside protection policies in the NPPF.

Policy BNE31 states that within the Strategic Gap development will only be permitted when it does not:

- (i) result in a significant expansion of the built confines of existing settlements; or
- (ii) significantly degrade the open character or separating function of the strategic gap.

Policy BNE32 states that development within the Kent Downs AONB will only be permitted where it conserves that natural beauty, wildlife and cultural heritage of the area. This is consistent with and supported by Paragraph 115 of the NPPF which

states that great weight should be given to conserving landscape and scenic beauty in AONB's.

Policy BNE33 of the Local Plan states that within the North Downs Special Landscape Area development will only be permitted if:

- (i) it conserves and enhances the natural beauty of the area's landscape; or
- (ii) the economic, and social benefits are so important that they outweigh the local priority to conserve the area's landscape.

The Medway Landscape Character Assessment describes the area as a relatively flat landscape with diverse rural land uses, including horse pasture, orchards and arable farming. A dominant landscape feature is the small to medium sized blocks of ancient woodland. The Landscape Character Assessment identifies Actions for this area to conserve and restore.

The impact of the development on the character and appearance of the AONB, SLA and the area in general will be assessed below.

#### *Design and effect on the character of the area*

Policy BNE1 of the Local Plan states that the design of development should be appropriate in relation to the character, appearance and functioning of the built and natural environment. The impact on the character of the area also needs to be assessed in accordance with the provisions of Policies BNE25, BNE32 and BNE33.

Being a mobile home the structure has no design merit in itself. However, the impact of the development on the character and appearance of the locality needs to be assessed. Matts Hill Road is a tree lined country lane, with occasional openings, serving houses. In some cases the houses are visible but in several instances, vegetation has established itself along the frontage to houses. The application site is situated in a section of Matts Hill Road which is not wooded but the frontage is characterised by hedges over 2m tall. On the south side of this section of Matts Hill Road, there are open fields, hidden by hedges.

The development, which has already been carried out, has opened up the frontage to the site and the mobile home, caravan and other structures are clearly visible from the highway. This has had an impact insofar as it represents an incremental change in the character of the area from a country lane to a suburban road. The development therefore fails to conserve or enhance the character and appearance of the countryside, the AONB and the SLA and as such is contrary to Policies BNE1, BNE25, BNE32 and BNE33. It is necessary to consider whether other material considerations outweigh the harm to the countryside, AONB and SLA.

#### *Loss of trees*

Policy BNE43 of the Local Plan states that development should seek to retain trees, woodlands, hedgerows and other landscape features that provide a valuable contribution to local character. The importance of woodland in this locality is recognised in the Medway Landscape Character Assessment. From the information

available, it does not appear that there were any trees of significance on the application site. However, there is an area of woodland immediately behind the application site which is protected by a Tree Preservation Order. The development, as submitted would not result in the loss of any of these trees, and therefore, no objection is raised to the application under Policy BNE43 of the Local Plan.

### *Amenity*

Although concerns have been expressed with regard to overlooking, the proposal should not result in any unacceptable overlooking. There are no immediately adjoining properties to the site, the nearest properties being Gramerci, 17.5m to the west, and 10 Matts Hill Road, 32m to the east. Whilst there is potential for overlooking from windows on the side of both the mobile home and the caravan, having regard to these distances and the fact that the structures are single storey, this would not be unacceptable. However, in the event of planning permission being granted, any potential overlooking could be mitigated by appropriate planting or screening and a relevant condition is recommended.

The proposal would not result in any loss of light or generate unacceptable levels of activity and traffic. Accordingly, no objection is raised under Policy BNE2 of the Local Plan.

### *Highways*

Although the application forms states that there is one parking space, in practice several cars could be parked on the site. No objection is therefore raised in terms of parking under Policy T13.

The proposal would not generate unacceptable levels of traffic and the vehicular access onto Matts Hill Road would not be detrimental to highway safety. No objection is therefore, raised under Policies T1 and T2.

### *Planning Policy for Traveller Sites*

Policy H13 of the Local Plan covers Gypsy caravan sites. This Policy states that Gypsy caravan sites and travelling showpeople's quarters will be permitted when:

- (i) the site is close to essential local services, including shops, public transport, schools, medical and social services; and
- (ii) the site can be physically contained and adequately screened from surrounding land; and
- (iii) there is compliance with agricultural, landscape, nature conservation and countryside policies; and
- (iv) there is no adverse impact on nearby residential amenity or agricultural interests; and
- (v) access arrangements are of a standard approved by the Highway Authority; and

(vi) there is adequate provision of power, water and sewerage.

Regard should also be paid to the Department of Communities and Local Government's Planning Policy for Traveller sites. This document contains specific planning policies relating to Traveller sites. Policy C relates to sites in rural areas and the countryside. It states that when assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Policy H deals specifically with determining planning applications for traveller sites. This Policy states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (Paragraph 20). Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites (Paragraph 21).

Paragraph 22 states that Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- (a) The existing level of local provision and need for sites;
- (b) The availability (or lack) of alternative accommodation for the applicants;
- (c) Other personal circumstances of the applicant;
- (d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- (e) That they should determine applications for sites from any travellers and not just those with local connections

Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure (Paragraph 23).

Paragraph 24 states that when considering applications, Local Planning Authorities should attach weight to the following matters:

- (a) Effective use of previously developed (brownfield), untidy or derelict land
- (b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- (c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- (d) Not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Paragraph 25 states that if a Local Planning Authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a material consideration in

any subsequent planning decision when considering applications for the grant of planning permission.

Paragraph 26 states that Local Planning Authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations.

Due to the size of the site and its planning history, several of the above criteria would not necessarily apply in assessing this application. However, having regard to Policy H (above), the application has been assessed in accordance with the NPPF and with relevant countryside protection policies, namely Policies BNE25, BNE32, BNE33 and BNE43 of the Local Plan. In this regard it was found that the development is unacceptable on account of its failure to conserve or enhance the character and appearance of the countryside, the AONB and the SLA and it is necessary to consider whether other material considerations outweigh this.

The scale of the use, one mobile home and one caravan occupied by a single family would not dominate the community and therefore no objection is raised under Policy C and paragraph 23.

Having regard to Paragraph 24, no landscaping is shown as part of the proposed development. It is, however, recommended that if planning permission is granted a condition be attached requiring the submission and approval of a landscaping scheme.

With regard to Paragraph 25, it is submitted that the latest Medway Gypsy Traveller and Traveller Accommodation Assessment (GTAA) covers the period from 2013 to 2028 and identifies a 5 year requirement of 13 pitches between 2013 and 2018. .

On the basis of the fact that in the absence of a 5 year supply, it is considered appropriate to grant an approval for this application. However, as the proposal does cause harm to the Countryside character of the area it is considered that any permission should be temporary pending the assessment and allocation of appropriate sites identified through the Development Plan process.

### *Human Rights Issues*

In his report into the planning appeal for the site at nearby King's Langley (MC/09/1804) the Inspector concluded that the development would harm the character and appearance of the surrounding area, the AONB and SLA and in this respect would conflict with Policies BNE25, BNE32, BNE33 and H13 of the Local Plan. However, the harm would be localised and temporary. He also took account of the unmet need for traveller accommodation and the lack of a suitable available alternative for the appellant and her family. He considered that if the appeal were to be dismissed the effect on their human rights would be disproportionate. In this instance, he considered that other material considerations, including the needs of the appellant and her family outweighed the harm which would be caused to the countryside for a limited period of time. On this basis, he recommended that temporary planning permission be granted for a period of five years. This was changed to three years by the Secretary of State in his decision letter. During a



recent visit to the site it was noted that the caravan and mobile home were no longer in situ.

Members' attention is also drawn to planning application MC/13/1598 for change of use of land to use as a residential caravan site for one gypsy family with two caravans including one static caravan/mobile home on land East Of North Dane Way, Chatham. That application was approved on 12 September 2013 for a temporary period of five years.

Having regard to the above considerations, it is recommended that temporary permission be granted for a period of five years.

#### *Local Finance Considerations*

No Local Finance Considerations are raised by this application.

#### **Conclusions and Reasons for Approval**

It is acknowledged that the proposal fails to conserve or enhance the character and appearance of the countryside, the AONB and the SLA and as such would conflict with Policies BNE25, BNE32 and BNE33 of the Local Plan. However, having regard to Government Advice on Traveller sites, the current GTAA and the human rights of the applicants, it is recommended that temporary planning permission be granted for a period of five years.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the extent of the representations received expressing a view contrary to the recommendation.

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#### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://planning.medway.gov.uk/dconline/AcolNetCGI.gov>