

MC/13/2575

Date Received: 15 October, 2013

Location: Orchard Grove, Meresborough Road, Rainham, ME8 8QJ

Proposal: Change of use of land for stationing of caravans for residential occupation with associated hardstanding, utility blocks, fencing and septic tank

Applicant: Mr & Mrs Simmons and Mr and Mrs James Howard

Agent: Mrs Heine Heine Planning Consultancy 10 Whitehall Drive
Hartford Northwich Cheshire CW8 1SJ

Ward Rainham South

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 20 May, 2014.

Recommendation - Approval with Conditions

- 1 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 31 December 2018 in accordance with a scheme of work that has been submitted to and approved in writing by the Local Planning Authority prior to 31 December 2018.

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 Policy BNE25 & BNE34 of the Medway Local Plan 2003.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Plan received on 15 October 2013; and Proposed Site Layout received on 24 December 2013 within two months of the date of this permission.

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 James and Mrs Kirsty Howard and their children, and Mr Danny and Mrs Claire Simmons and their children. When the premises cease to be occupied by Mr James and Mrs Kirsty Howard and their children, and Mr Danny and Mrs Claire Simmons and their children 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 & BNE34 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 each of the two plots shown on the proposed site layout 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 and BNE34 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 are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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 Policies 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.

This is an application for a change of use of land for stationing of caravans for residential occupation with associated hardstanding, utility block, fencing and septic tank

This application relates to a site on the east side of Meresborough Road with a frontage of approx 34m and a depth of approx 62m. To the rear is a similar area of land owned by the applicants but not forming part of the application site. The land is currently occupied by two mobile homes and two touring caravans which are located along the southern boundary to the site; there is a close-boarded fence along this boundary. The land is accessed off Meresborough Road via a gate in the south-west corner. Most of the site is grassed although there is shingle at the western end for vehicles to park.

It is proposed to re-arrange the site and divide into two plots, each occupied by a mobile home and a touring caravan. A single storey utility building, measuring 5m by 4m is proposed for each plot. The plots will be separated by 1.4m high panel fencing and a 1.2m post and rail fence would be erected along the eastern boundary to separate the application site from the remaining land. A septic tank is shown on this land.

It is submitted that the site will be occupied by Mr and Mrs Simmons and by Mr and Mrs James Howard; Mr Howard is Mrs Simmons' brother. Mr and Mrs Simmons have three children aged 3, 9, and 12, and Mr and Mrs Howard have four children aged 1, 5, 9 and 12. Mrs Simmons and Mr Howard were born at Cuxton Gypsy site.

Relevant Planning History

There have been no previous planning applications for this site. However an application for a Lawful Development Certificate (existing) for the siting of a mobile home at Orchard Stable, immediately to the south of the application site was refused on 25 July 2013.

Representations

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

Eight letters have been received raising the following objections:

- Site is in an Area of Local Landscape Importance;
- Meresborough Road is narrow and heavily trafficked;
- Proposal would have an adverse impact on wildlife;
- There is no need for the proposed development;
- Proposal would adversely affect the character of the area;
- Use has already commenced;
- Precedent.

One letter of support has been received from Miers Court Primary School stating that a move from the site would be detrimental to the education and well being of one of the children currently living on the application site.

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

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 Mierscourt /Meresborough Area of Local Landscape Importance (ALLI) as identified in Policy BNE34.

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 BNE34 states that within the ALLI's development will only be permitted if:

- (i) it does not materially harm the landscape character and function of the area; 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 an undulating landscape of orchards and arable farmland with a trend away from traditional orchards to horse paddocks and arable farming which has led to a decline in traditional field patterns.

The impact of the development on the character and appearance of the countryside and the ALLI 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 Policy BNE34.

Being mobile homes the structures have no design merit in themselves. However, the impact of the development on the character and appearance of the locality needs to be assessed. Meresborough Road is a narrow country lane, generally tree lined but with open fields beyond. The existing mobile homes are partly visible, although the site has been screened by a close-boarded fence. The development, as a whole, results in an enclosed site which is out of character with its surroundings. The proposal would result in the re-arrangement of the mobile homes and other structures on site, but the sense of enclosure would remain.

The development therefore materially harms the character of the area and as such is contrary to Policies BNE1 and BNE34 of the Medway Local Plan. It is necessary to

consider whether other material considerations outweigh this harm.

Amenity

There are no neighbouring properties adjoining the site and therefore there would be no adverse impact in terms of light, privacy or outlook. No objection is therefore raised under Policy BNE2 of the Medway Local Plan.

Highways

The western part of the site is currently hard core and is used for the parking of vehicles, whilst the eastern part is grassed. The submitted drawing shows that all of the site would be a hardstanding. This could be tarmacked to stop loose stones being dragged onto the road. There would be adequate space on site for parking to serve the two mobile homes and accordingly, no objection is raised under Policy T13 of the Medway Local Plan.

The proposal would not generate additional traffic onto Meresborough Road and therefore no objection is raised under Policies T1 and T2 of the Medway Local Plan.

Planning Policy for Traveller Sites

Policy H13 of the Medway 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 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 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 and BNE34 of the Local Plan. In this regard it was found that the development is unacceptable on account of it not relating to a use essentially demanding a rural location and causing material

harms to the character of the area. However, it is necessary to consider whether other material considerations outweigh this harm such as the DCLG's Planning Policy for Traveller Sites.

The scale of the use, two mobile homes and two caravans occupied by two families would not dominate the community and therefore no objection is raised under Policy C and paragraph 23.

Having regard to Paragraph 24, existing 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 scheme showing additional landscaping.

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. .

The Gypsy Council has confirmed that the applicants have Gypsy status.

On the basis of the fact that in the absence of a 5 year supply of deliverable sites, 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.

Personal Circumstances

Recent appeal decisions are material considerations and provide guidance in terms of the weight to be attached to personal circumstances. In his report into the planning appeal for a site at King's Langley, Matts Hill Road, Hartlip (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 Medway 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 personal circumstances 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.

Members' attention is also drawn to similar planning applications which have been considered recently: 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, which was approved on 12 September 2013 for a temporary period of five years, and MC/13/2047 for the use of land for stationing of a mobile home and touring caravan at 10a Matts Hill Road, which was approved on 30 January 2014, again for a

temporary period of five years.

The families to which this application relate are already living on site albeit in a different configuration. The local school have written to lend support to the application on the basis that the refusal of this application will have a detrimental impact on the education and well being of one of the children. Taking this into account and the lack of a five year supply of deliverable sites, it is recommended that on balance temporary permission be granted for a period of five years.

Local Finance Considerations

There are no Local Finance Considerations raised by this application.

Conclusions and Reasons for Approval

It is acknowledged that the development is unacceptable on account of it not relating to a use essentially demanding a rural location and causing material harm to the character of the area and as such would conflict with Policies BNE1, BNE25 and BNE34 of the Medway Local Plan. However, having regard to Government Advice on Traveller sites, the current GTAA and the humanrights 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.

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>