

MC/15/4385

Date Received: 16 December, 2015

Location: Land Adjoining Four Seasons, 10a Matts Hill Road, (Known As Hildenfield), Hartlip, Sittingbourne, Kent ME9 7XA

Proposal: Retrospective application to allow for the siting of a second static mobile home (following planning permission MC/13/2047).

Applicant: Mr Hilden

Agent: Mr B Woods WS Planning & Architecture Europe House Bancroft Road Reigate Surrey RH2 7RP

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 29 June 2016.

Recommendation - Approval with Conditions

- 1 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 30th June 2019 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 PL02C1 received on 16 December 2015.

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 and also allows for Mr Ryan Faulkner (partner of Amy-Leigh) and their twin sons Ryan Sam and Riley John Faulkner. When the premises cease to be occupied by Mr John Hilden, Mrs Lisa Hilden, John Hilden, Amy-Leigh Hilden, Henry Ambrose Hilden, Lena Marie Hilden, Ryan Faulkner, Ryan Sam Faulkner and Riley John Faulkner, 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 and BNE33 of the Medway Local Plan 2003.

- 4 No more than three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which two shall be static caravans/mobile homes and 1 shall be a touring caravan) 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

Retrospective application to allow for the siting of a second static mobile home (following planning permission MC/13/2047).

Site Area/Density

Site Area: 0.06 hectares (0.15 acres)

Site Density: 17 dph (6.7 dpa)

Relevant Planning History

MC/14/0884

Details pursuant to condition 5 of planning permission MC/13/2047 for 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
Decision Discharge of Conditions

Decided 02 June 2014

MC/13/2047

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

Decision Approval With Conditions

Decided 30 January 2014

Representations

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

10 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;
- Traveller sites here dominate the settled community

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 National Policy for Travellers (August 2015).

Planning Appraisal

Background

In January 2014 temporary planning permission was granted for 1 mobile home and 1 tourer at this site (MC/13/2047). This had a number of conditions on it that restricted activity on site, including:

- 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.

Since the granting of this permission the family circumstances have altered slightly in that the eldest daughter has now had twins. In order to accommodate this growing family they have sited a second mobile home along the east boundary which allows for the daughter and the babies to live with her parents. It has been explained that the daughter's partner is a true 'traveller' and does not live with them at the site as he is moving around on a frequent basis. Despite this, he will be on site from time to time and therefore when he is around, is not compliant with condition 3 of the previous permission. The twins are also not included within the current permission. Given that the adaptations that have been made with the addition of a mobile home it was not considered suitable to vary the existing permission and a new, full application was requested.

Principle

The site is outside the urban area, as defined on the Proposals Map to the Medway Local Plan 2003 and in open countryside. It is also in the Strategic Gap, as identified in Policy BNE31, 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 of the Medway Local Plan 2003. The development proposed is a retrospective application for the siting of a second static mobile home in addition to those already on site. The proposed development therefore falls within the area of Saved Policies BNE25, BNE31, BNE32, BNE33 and H13 of the Medway Local Plan 2003. Policy BNE25 of the Medway Local Plan 2003 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).

Policy BNE31 of the Medway Local Plan 2003 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 of the Medway Local Plan 2003 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 Medway Local Plan 2003 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.

As can be seen above, Policies BNE25, BNE31, BNE32 and BNE33 seek to protect the countryside and rural environment from development. These policies seek to restrict development in rural and countryside locations. These policies would normally find the proposed development unsuitable. However a similar style of development has already been permitted (MC/13/2047) and the principle established for temporary accommodation on the site.

Policy H13 of the Medway Local Plan 2003 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.

The development proposed is for specific gypsy and traveller accommodation. National Policy for Travellers (August 2015) states that the Council need to have established a 5 year supply of sites for accommodation.

The Council commissioned the University of Salford to undertake a Gypsy, Traveller

and Travelling Showpeople Accommodation Assessment in 2013. This identified a need for 13 extra pitches 2013-2018. At present a total of 9.6 pitches have been supplied since 2013 to meet the assessed need. Therefore there is an undersupply of pitches identified.

However the National Planning Policy for Traveller sites (2015) amended the definition of a 'traveller' (includes gypsies and travellers for the purpose of the policy document). It stated that 'travellers' were:

'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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

This means that those who have permanently given up travelling are now not defined as 'travellers'. This change could have an impact on the level of need in the GTAA as this was undertaken under the previous definition. Medway Council is in the process of updating its Local Plan and has not yet produced a new GTAA to account for the changes.

Policy C of the Planning Policy for Traveller Sites (2015) 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. Given the location of this site and the fact that the majority of the settled community are located to the east (some 400m + away) it is considered that the current scale of traveller occupation here is not dominant.

Policy H of the Planning Policy for Traveller Sites (2015) states that a LPA must demonstrate a 5 year supply of deliverable sites. At the present time Medway Council cannot do this for the reasons outlined above and so a presumption in favour of sustainable development should be followed unless exceptional circumstances prevail. Exceptional circumstances in the National Policy for Travellers are defined as:

'where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).'

As noted the site is within the Kent Downs AONB and so this is considered to be an exceptional circumstance and thus outside of the remit of the policy to fall within the caveat for special consideration in light of the lack of a demonstrable 5 year supply.

The Local Authority acknowledges that the principle for the proposed development has been established on site and that at the present time does not have adequate evidence to establish an accurate picture of the level of need in the area due to the change in definition and therefore does not raise an objection. It notes that this work is currently being undertaken and so any permission granted should be temporary until the policy context can be updated and allocations of sites established. This is

especially true given the proposed location within the Kent Downs AONB and associated landscape grounds impacts.

Design and effect on the character of the area

Policy BNE1 of the Medway Local Plan 2003 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 of the Medway Local Plan 2003.

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 granted, has opened up the frontage to the site and the mobile home, caravan and other structures were clearly visible from the highway. This had an impact insofar as it represented an incremental change in the character of the area from a country lane to a suburban road. An additional mobile home here is therefore also visible from the public realm and on this basis the proposal is still considered to fail 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 of the Medway Local Plan 2003. It is necessary to consider whether other material considerations outweigh the harm to the countryside, AONB and SLA.

Amenity

This application is not considered to impact neighbouring amenity any more than the previous approval. The fact that there is boundary treatment in place and that this is sited approx. 17.5m from the boundary with Gramerci and over 20m to the original boundary with no.10 Matts Hill Road allows for a suitable separation.

It is noted that part of the previous permission required landscaping to be submitted to be approved. This discharge of condition was submitted in April 2014 and was discharged in June 2014 on the basis that planting was to occur at the front of the site (double staggered laurel row at 300mm c/c with a grassed area behind).

To ensure that amenity is not impacted it is considered suitable to re-impose the previous conditions regarding occupants and number of units on site to restrict a more intensive use on the site. The current situation, functioning as a sole family is not considered to be of an intensive nature.

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

Medway Local Plan 2003.

Highways

It has been noted on many officer visits to the site that there is, in practice the ability to park several cars on the site. No objection is therefore raised in terms of parking under Policy T13 of the Medway Local Plan 2003.

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 of the Medway Local Plan 2003.

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 Medway Local Plan 2003. 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 and taking account of the work currently being carried in for the production of a new Local Plan, it is recommended that temporary permission be granted for a period of three 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 Medway Local Plan 2003. However,

having regard to the existing planning permission for the site, the 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 three 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://publicaccess.medway.gov.uk/online-applications/>