Platt Borough Green And Long Mill	**561525 156198**	**02.08.2005**	**TM/05/02478/FL**

Proposal:	Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds
Location:	Plot 9 Travelling Showpeople's Quarters Crouch Lane Borough Green Sevenoaks Kent
Applicant:	Lynn Marie + Billy Davis

1. Description:

1.1 This application seeks planning permission to establish a base for travelling showpeople. The proposal relates to a plot within a wider site that has in the past been used unlawfully as a showmen's winter quarters site but this application has been submitted on an entirely individual basis as opposed to the collective approach that has previously been pursued by the various plot owners of 'Oakwood Drive'. (Members will nevertheless note from this agenda that several other plot owners have also submitted applications on an individual basis).

1.2 In essence, the application seeks to make a material change in the use of the land to a plot where a mobile home(s) can be stationed for residential purposes and where fairground machinery and similar apparatus can be stored and repaired. Additionally, the proposals seek consent to carry out various operational developments including the creation of areas of hardstanding, the erection of sheds and fencing. Precise details of the number and nature of ancillary structures have not been submitted.

1.3 The applicants have indicated that for the most part proposed areas of hardstanding would be created using 'Type 1' roadstone, with the rest of the site either laid to grass or ornamental planting. The plot would be enclosed with low-level, rustic style timber fencing and timber gating. It is also stated that any lighting would also be low level. Precise details of the height and appearance of any required operational development have not been submitted but the applicants have indicated that they would be prepared to use whatever landscaping the Council considered most appropriate. The applicants have submitted that at least 48 hours notice can be given in advance of the movement of any heavy plant or machinery from the site should this be considered necessary.

1.4 The applicants advance a case of personal circumstances in support of their proposal and these are as follows:

- The applicant moved on the land following a family dispute at their previous site at Grayshotts. There is no room on the previous site to return.
- If the family is not allowed back on their land (at Crouch Lane) then they will have to pull into lay-bys and the children will be unable to go to school.

1.5 A petition accompanies the application that has been signed by local residents in opposition to the eviction of the travelling showmen from this plot and the wider site. The petition contains 88 signatures.

2. The Site:

2.1 The site comprises part of a wider field situated to the west of Crouch Lane. It extends to approximately 4090sqm in area. Open land lies immediately to the north, south and west. Public Right of Way MR302 lies beyond the southern boundary and adjacent to the eastern boundary of wider field.

2.2 The site is designated within the Development Plan (as defined on the Proposals Map of the TMBLP) as open countryside, MGB and a SLA. Vehicular access is taken via a private trackway that in turn connects with Crouch Lane.

3. Planning History:

3.1 TM/05/02476/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 13 Oakwood Drive.

3.2 TM/05/02477/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 14 Oakwood Drive.

3.3 TM/05/02479/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 6 Oakwood Drive.

3.4 TM/05/02481/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 1 Oakwood Drive.

3.5 TM/05/02482/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 8 Oakwood Drive.

3.6 TM/05/02483/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 10 Oakwood Drive.

3.7 TM/05/02536/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 11 Oakwood Drive.

3.8 TM/05/02721/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 3 Travelling Showpeople's Quarters Crouch Lane Borough Green.

3.9 TM/05/02743/FL Undetermined (but included on this agenda)
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds at Plot 19 Travelling Showpeople’s Quarters, Crouch Lane, Borough Green.

3.10 TM/05/02002/FL Withdrawn
Change of use of land to base for travelling showpeople inc. division and fencing of land into plots, siting of mobile homes for residential use, the storage and repair of vehicles and fairground rides/machinery and ancillary creation of access tracks, hardstanding and storage sheds.

3.11 TM/05/00660/FL Withdrawn
Continued use of land by travelling showpeople and retention of operational development.

3.12 TM/00/02981/FL Refused. Appeal Dismissed.
Change of use of land to travelling showpeople's quarters.

3.13 On Monday 13 November 2000 the Council obtained a High Court Injunction to prevent caravans from moving onto this and adjoining land and to stop any further development taking place including the installation of a mains electricity service, the construction of tracks and erection of fences. The injunction was later varied by agreement to provide a temporary electrical supply to the site for domestic purposes only and to allow a single sewage bowser on the site.

3.14 A planning Enforcement Notice was served on the owners of this land and adjoining land on 24 November 2000 requiring the cessation of the use of the land as a travelling showmen's site. (The Enforcement Notice required the removal from the land of all residential caravans, showmen's equipment and associated vehicles and trailers and also any fences or barriers that have given rise to the appearance of plots within the site and the reinstatement of the land to its previous condition as at 3 November 2000). The Enforcement Notice would have taken effect on the 29 December 2000, but became the subject of an appeal. A Public Inquiry commenced on 4 September 2001 and the appeal was subsequently dismissed. Legal challenges to the Injunction and Enforcement Notice have all subsequently failed.

3.15 In addition to the above Enforcement Notice and Injunction, a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 was served on the 24 November 2000 to remove those permitted development rights that might otherwise allow the erection of fences or formation of any additional means of access to the land. The Direction has been confirmed.

3.16 A second Direction under Article 4 was served removing permitted development rights that might allow the maintenance or improvement of 'unadopted' streets or private ways. That Direction has also been confirmed.

4. Consultees:

4.1 PC: We believe that the needs of Travelling Showpeople for a permanent base could be sufficient to exceptionally justify development within the Metropolitan Green Belt. Additionally, however, we feel that there are three very important requirements for any such site:- (1) It should not have any classification other than MGB. (2) It should have good natural screening for both near and far views of the site. (3) It should have good connections to the primary road network for the passage of vehicles of the size used by the showpeople.

This Council does not believe that this proposal meets any of these three requirements and therefore objects to the application because:-

- Besides being within the MGB the proposal site is designated as a Special Landscape Area.

- The site is currently partially screened from near views and this could be improved to some extent by a suitable low level landscape scheme. Most of the existing screening is, however, of a deciduous type which would give much less screening during winter months when the site would be fully occupied. There are also more distant views of the site from local vantage points that are unlikely to be improved by anything other than major landscape work involving tall growing species which would themselves alter the nature of the area and the existing views.

- Access to the site from the A25 is either directly down Crouch Lane from the North or down Long Mill Lane through the centre of Platt Village and then up Crouch Lane from the South. Both of these routes are along country lanes which are in places only just wide enough to accommodate the width of the vehicles that would be used. Just a single lorry of the size used would create difficulties for any type of road user travelling in the opposite direction and the situation would be aggravated by the use of large trailers attached to most of the lorries. Although it was said by some of the applicants at a public hearing during the previous unauthorised use of this site that they did not operate, or know of anyone on the site who did operate, 'road train' vehicles i.e. lorry+trailer+caravan, such vehicles have been seen by residents going to or from the site. Besides the problems caused to other user of these lanes, including pedestrians with no footpath, cyclists and horse-riders, there would also be erosion of the earth banks and hedges that border the lanes creating an unsightly appearance to the area. The suggestion by the applicants that they could use the two access routes on a one-way basis would only alleviate the problem if such a one-way operation was applied to all road users - this is not considered to be a suitable use for these country lanes.

  Although some of the applications give an indication of the number and size of vehicles and mobile homes that would use the individual plots there is a lack of detail of these aspects. Also the layout and size of the plots is ill defined. It is felt that these full details must be available if a full application is to be considered.

  Many of the applications put forward the need for regular schooling for the children as a reason for needing a fixed base. At the same time, however, most say they will only be on site during the winter months as they are travelling around the country working for at least seven months of the year. The children will therefore only benefit from a regular school place for a small part of each year even if the applicants do have a fixed base.

  The petition attached to application TM/05/02478/FL was previously considered as covering the whole site and we take it as being applicable to all of the applications under consideration. We observe that the majority of the signatories to this petition do not live near the site and several are a

considerable distance away e.g. Sevenoaks and Walderslade. Such signatories are unlikely to have any concerns regarding the open green nature of the site and of any local desire to keep it that way. We remain convinced that there is a valid need for a permanent base for these Showmen but this particular site is unsuitable as previously expressed to you.

4.2 KCC (Highways): Views awaited.

4.3 KCC Strategic Planning: Raises objection to these proposals on the grounds that they represent 'inappropriate development' within the Green Belt and are in conflict with countryside and SLA policies.

4.4 London Green Belt Council: The developments are non-conforming and/or inappropriate within the MGB and would, moreover, impact very adversely on "openness", the most important attribute of the Green Belt. The division and fencing, and storage sheds being a permanent feature of the proposals however mobile the homes and other equipment might be in practice.

As with residential development for 'Travellers', there could be many people and/or firms who would like to reside in and/or engage in some commercial storage activity within the GB and who, with a general shortage of land space in London and the SE, could advance a range of particular reasons, including the matter of non GB alternatives, as "very special circumstances" to override GB criteria. Thus the volume of pressures on the GB are very great, and possibly increasing, so that the avoidance of unfortunate precedents becomes the more important if the preservation of the GB is to be maintained, as Ministerial pronouncements and assurances suggest and recommend should be the case.

It is hoped therefore that these applications will be refused.

4.5 Crouch Lane Residents Assoc (summarised): The site is designated MGB and the proposed development would harm this area of natural beauty and have far reaching effects upon wildlife. The light and noise pollution caused by the creation of a residential development at this location would have a detrimental effect on other residents in the area and would blight a considerably larger area than that currently occupied.

The lane which forms the only access to the site is designated a rural lane and is not appropriate for the movement of large slow moving loads and there has already been several near misses so far as accidents with other road users are concerned.

We do not believe that the change of use can be justified so far as the economic and social well being of the area is concerned and are of the opinion that it breaches the policies laid down by both the KSP and the TMBLP.

We do not consider there to be any merit in this case.

4.6 Private Reps: 1S/31R/0X.

The letters of objection express concern on the following grounds:

- The proposals would be harmful to the openness and integrity of the MGB.
- The proposals would have a detrimental impact upon character and amenities of the immediate countryside and the wider area that is designated as SLA.
- The proposal would be a visual intrusion on the landscape.
- The proposal would give rise to noise and light pollution.
- The proposals would give rise to hazards on the public highway since access to the site is via Crouch Lane which is unsuitable for use by large vehicles like trailers, lorries and fairground rides.
- There has been no substantive change in the personal circumstances of the applicants since previous decisions to refuse permission to stay on the land.

The letter of support received makes the following comments:

- There is wide public sympathy for this group of Showmen in the Borough Green area, who have proved to be good neighbours and valuable members of the community.
- There is a dispensation within PPGs for development in Green Belt in cases where there is a clear social need. The need of these people to have a permanent winter base for their operations, to provide a stable life for their children to be educated and possibly break out of their current vicious circle, and to allow their older members to access medical and social help in their retirement, provides an overwhelming justification for this social needs dispensation.
- Whilst the local lanes are clearly not designed to take large vehicles, there is a precedent set for their use by the large numbers of HGVs using these lanes for farm collections, feed and animal movements, domestic deliveries and deliveries to the commercial premises and building sites in the rural area caused by the diversification of farm use. The spring and autumn moves by Showmen pale into insignificance against the numbers of HGVs already using the lanes.

- The Development Plan system has ignored the needs of Showmen and their exclusion from the process amounts to a violation of their human right to equitable treatment.

- The Travelling Fair is part of the Country's heritage and deserves support and preservation.

- During past enforcement and appeals proceedings against the Showmen at this site it was stated that "they did not merit consideration because they came from outside the area". Such a test is not applied to the rejection of other applications for housing where new dwellings may well be sold to people from outside the area.

- What local concerns there are about this development could be alleviated by careful imposition of planning conditions such as screening, metalling of roads, lighting, hours limits on vehicle movements and maintenance, and by limiting resale of plots solely to accredited Showmen, so this cannot be used as a precedent for wider development of the site.

- The Planning Authority will be aware of it's responsibilities to Showmen under the obligations and recommendations of the Environment, Transport and Regional Affairs Select Committee Ninth Report; Circular 22/91 and Circular 23/83 and to the directive from the ODPM dated 7th March 2005 Reference No. 0051, requiring local authorities to ensure provision for travelling people in their development plans. The Council has taken no notice of these guides and directives.

5. Determining Issues:

5.1 This is one plot within a much larger site. (It is one of the 19 plots created out of the subdivision of a single agricultural field) As has been confirmed in respect of a previous appeal at this site, the proposal represents *'inappropriate development'* within the MGB that must be considered objectionable in principle, by virtue of the provisions of PPG2, KSP 1996, the TMBLP and KMSP. Such a form of development within rural Kent is also contrary to the policies of the KSP 1996, TMBLP and KMSP which seek to protect the open countryside (whether MGB or not) from unacceptable incursions which are not justified by an overriding need for this development. Accordingly, planning permission can only be granted by this Council if Members consider that the individual case and circumstances advanced by the applicants are such that they constitute a set of very special circumstances that is of such weight that the clear planning policy objections to the proposal should be set aside in this instance.

5.2 As Members will note from the planning history section above, earlier proposals to establish showmen's winter quarters on this site – albeit in the form of collective proposals for the wider field within which this plot lies – have been refused and appeals against that refusal and also a subsequent Enforcement Notice have been

dismissed. Moreover, legal actions instigated by the Council to secure the cessation of the unauthorised use of the site as Showmen's winter quarters and to secure the removal of the unauthorised operational development on the land have been challenged unsuccessfully, the Council having defended its position in the Court of Appeal and the House of Lords refusing to overturn that decision in favour of the travelling showmen. Accordingly, unless the postulated very special circumstances now advanced by the applicants in this instance are issues that have not previously been considered and are of such substantive weight that the established planning objections to such a form of development can be set aside, the Council has no realistic alternative other than to refuse planning permission for this application.

5.3 I have considered the very special circumstances advanced in this case by the applicant but feel that none of these personal circumstances are of sufficient significance that they warrant setting aside the significant and fundamental planning policy objections that there are to such a form of development within open countryside designated as MGB.

5.4 The applicants' personal circumstances advanced in support of this application are identical to those that were lodged with the High Court when the injunction referred to above was heard at that Court. At that time, the applicants stated that they were travelling showmen who had purchased and moved onto the land because they were no longer able to stay at their previous location due to a family dispute. The applicants argued that they had invested their savings into buying this land and did not have the finances to purchase another site. Time has elapsed since the Judges' decision with regard to the High Court case but no evidence has been submitted with the application to demonstrate that further attempts have been carried out to find an alternative, more appropriate site to move to.

5.5 In any event, even if the case of personal need amounted to very special circumstances that warranted the setting aside of MGB policy or for the setting aside of countryside policy, the very nature of the proposals in terms of the extent of plant, apparatus and other development are such that they would give rise to a substantial change in the character and appearance of this rural locality that is designated as SLA. This change would be seriously detrimental – the open undeveloped character of this landscape would be unduly eroded. Accordingly, I would strongly object to the proposals in terms of their visual impacts alone. This point was explicitly acknowledged by the appeal Inspector and the Secretary of State in his decision on earlier proposals for showmen's winter quarters on this site and the adjoining plots. Significantly, these circumstances have not materially changed since the only difference I can identify is that the applicants are now prepared to use more sympathetic fencing and landscaping than previously. However, the machinery, mobile units and other developments will still cause harm to the appearance of this rural location. In this respect I find the proposals to be contrary to the provisions of Policy P5/8 of the TMBLP

5.6 Finally, I am convinced that the proposals are unacceptable in highway terms. Crouch Lane is a narrow road designated as a 'rural lane' and, although I appreciate that many of the larger fun fair type vehicles will leave and return the site on a relatively infrequent basis, Crouch Lane is quite simply not suitable to accommodate such additional traffic. Again, this is a point that was accepted by the appeal Inspector and the Secretary of State and there are no significant changes in circumstances with regard to this issue since that decision.

5.7 In reaching my recommendation, I can confirm that I have considered the Human Rights of the applicants as evidenced in the factors outlined in Section 1 above but consider that these do not justify the granting of permission for this form of development and Members are invited to consider this issue in their evaluation of the merits of this application.

5.8 Taking into account the history of the site, it has been previously considered by this Council and the First Secretary of State that the development of this field as a whole for showmen's winter quarters was unacceptable for sound planning reasons. In my opinion, the impact of a piecemeal development would be even worse as a result of the likely appearance of the wider site being scattered with unrelated patches of development in this sensitive location.

5.9 In summary, the proposal is contrary to established planning policies for this locality. While the applicants have advanced personal circumstances it is not considered that these are sufficient to override policy or amenity considerations.

6. Recommendation:

6.1 **Refuse Planning Permission** for the following reasons:

1 The development constitutes "inappropriate development" within the Metropolitan Green Belt since it does not fall within any of the categories of development which are considered appropriate within such areas. As such, the proposed development would be contrary to the provisions of PPG2 Green Belts, Policy MGB3 of the Kent Structure Plan 1996, Policy SS9 of the emerging Kent & Medway Structure Plan 2003 and Policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998.

2 As a result of the proposed extent and appearance of the caravan(s), vehicles and machinery on the site and ancillary domestic and commercial paraphernalia on the site, the development is considered to be visually intrusive within this sensitive location. It would not maintain the open character of the Metropolitan Green Belt and would therefore be contrary to the provisions of PPG2 "Green Belts" and Policy MGB3 of the Kent Structure Plan 1996 and Policy SS9 of the emerging Kent & Medway Structure Plan 2003.

3 As a result of the extent and appearance of the proposed caravan(s), vehicles and machinery on the site and ancillary domestic and commercial paraphernalia on the site, the development would be visually intrusive and damaging to the natural beauty of the landscape within this designated Special Landscape Area. As such, the proposed development is contrary to the provisions of Policy ENV4 of the Kent Structure Plan 1996, E1 and E5 of the emerging Kent & Medway Structure Plan 2003 and Policy P3/6 of the Tonbridge and Malling Borough Local Plan 1998.

4 The development:

- would be inappropriate in terms of its location and appearance to its surroundings;
- would be unacceptable in highway and infrastructure terms;
- does not have regard to the environment policies of the Kent Structure Plan 1996 or the emerging Kent & Medway Structure Plan;
- does not preserve and, and as far as possible, enhance the character, amenity and functioning of settlements and the countryside and
- does not comply with Policy MGB3 of the Kent Structure Plan 1996.

As such, the proposed development is contrary to Policy RS1 of the Kent Structure Plan 1996.

5 The development is contrary to Policy RS5 of the Kent Structure Plan 1996 and E1 of the emerging Kent & Medway Structure Plan 2003 which state that development will not normally be permitted in rural Kent other than at the villages and small rural towns unless the development falls into one of the special categories listed in the policies, none of which applies to this development.

6 The development, which would be located in the countryside, is:

- prejudicial to residential amenity due to intrusion by excessive noise, lighting, traffic generation and activity at unsociable hours;
- visually intrusive;
- unacceptable in landscape and highway terms;
- contrary to the provisions of Policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998.

Furthermore, the Local Planning Authority is not convinced that the applicants as Showpeople have a clear and overriding need to use this site and does not consider that there is an exceptional justification for allowing this development within the countryside. As such the development is contrary to the provisions of Policy P5/8 of the Tonbridge and Malling Borough Local Plan 1998.

7 The development is contrary to Policy ENV1 of the Kent Structure Plan 1996 and PPS7 "The Countryside - Environmental Quality And Economic And Social Development" since it will adversely affect the countryside and will not maintain or enhance it. Furthermore, no clear local need for the site has been demonstrated, and there is no exceptional overriding need for the development which outweighs the requirements to protect the countryside for its own sake.

8 The development is contrary to Policy T18 of the Kent Structure Plan 1996 as it generates significant increases in traffic, especially heavy goods vehicles, and is not well related to the primary or secondary road network.

9 The personal reasons put forward in support of the application are not considered by the Local Planning Authority to be sufficiently strong to outweigh the planning objections to the proposal. (GR02)

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