

Ightham	559088 156042	13 April 2007	TM/07/01238/FL
Ightham			

Proposal:	Change of use for stationing of two caravans for residential use with associated hard standing, fencing, sheds, septic tank etc for occupation by single gypsy family
Location:	Land Southeast Of Hazeldene Farm Bungalow Old Lane Ightham Sevenoaks Kent
Applicant:	Mr J Moore

1. Description:

- 1.1 The application is retrospective. The two caravans referred to in the description are touring vans. It is also proposed to retain the existing hard standing, fencing utility shed, generator, portaloo and kennels. The application has been submitted on the basis of the site being occupied by one family.

2. The Site:

- 2.1 The site lies outside the settlement confines of Ightham, within the Metropolitan Green Belt and an Area of Special Character. The site is accessed from Old Lane and is steeply sloping up away from the lane.

3. Planning History:

TM/03/03028/FL	Refuse	13 November 2003
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Siting of two twin unit mobile homes and two touring caravans.

TM/03/03567/FL	Refuse	22 December 2003
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Siting of one twin unit mobile home (20ft x 40ft) Same type as previously applied for under ref TM/03/03028/FL.

TM/04/00536/FL	Refuse	27 October 2004
	Appeal dismissed	08 July 2005

Change of use of land for the stationing of one residential caravan

03/00371/UNAWKS	Enforcement Notices served	25 November 2003
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4. Consultees:

- 4.1 PC: This application follows earlier applications for residential development on this site, to which we strongly objected and which were refused. The resultant enforcement action to remove caravan and restore the site to its previous condition as unmanaged young woodland still has not been complied with.

We continue to object on the strongest possible grounds to this latest application. The site is in the Green Belt, a Special Landscape Area and an Area of Special Character. The presumption from all these policies is that there should be no new residential development unless very exceptional circumstances prevail. No such circumstances have been put forward, or exist in the present case.

This latest attempt to gain retrospective approval for the unauthorised use and development of this site should be refused and enforcement action should continue to remove the caravans and return the site to its original condition as quickly as possible. There should be no question of temporary permission being granted for the caravans to remain.

4.2 KCC (Highways): In principle I raise no highway objections.

4.3 DHH: No comments per se, however the suitability of the site to incorporate a septic tank should be referred to the Environment Agency.

4.4 Private reps (including Art8 Public Notices):14/0X/0S/8R: The reasons for objection are :

- The site lies within a Green Belt and an Area of Special Character.
- The development is wholly inappropriate, out of character with its surroundings and significantly detracts from the appearance of the local area.
- The development causes hazards to traffic using the A25 and pedestrians, cyclists and horse riders using Old Lane.
- Allowing this development would set a dangerous precedent.
- The applicant's children no longer attend Ightham School.
- The circumstances put forward by the applicant are not "very special".

5. Determining Issues:

5.1 Members will recall that the applicant submitted a previous (retrospective) application to change the use of this site for stationing one residential and one touring caravan. This application was refused and the subsequent appeal dismissed in July 2005.

5.2 The main determining issues that relate to this development remain the principle of the development within the Green Belt and the impact of the development upon the character of the countryside.

- 5.3 The site remains within the Green Belt where Government guidance contained within PPG 2 applies. It is stated at paragraph 3.12 of PPG 2:

"The statutory definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt"

- 5.4 Paragraph 1.5 of PPG 2 defines the purposes of including land within the Green Belt, one such being to assist in safeguarding the countryside from encroachment. The development does harm the openness of the Green Belt, with the introduction of the two caravans, associated structures, the extensive hard standing, tree clearance and the erection of close boarded fencing around the perimeter of the site and is a significant encroachment into the countryside. As such, the development is, in my opinion, inappropriate development within the Green Belt
- 5.5 PPG 2 states at paragraph 3.1 that there is a general presumption against allowing inappropriate development which should not be permitted, except in very special circumstances.
- 5.6 Policies SS2 of the Kent and Medway Structure plan 2006 and CP3 of the Tonbridge and Malling Local Development Framework Core Strategy state that proposals within the Green Belt will be considered against National Green Belt policy.
- 5.7 The applicant's agent has submitted a very detailed statement in support of this development, which is available for inspection prior to the meeting. This statement refers to the personal circumstances of the applicant and his family, relevant planning policies/guidance, recent studies relating to gypsy and travellers needs and the recently published GTAA undertaken jointly on behalf of Ashford, Maidstone, Tonbridge and Malling and Tunbridge Wells Borough Councils.
- 5.8 In terms of personal circumstances, the applicant now has 4 children living within this site (ages 9, 8, 6 and 1). The three oldest children attend Borough Green Primary School. One of the children is receiving additional assistance with school work and one of the other children has a speech impediment which the school is helping him with.
- 5.9 The applicant's agent described the family as being of limited means, living a modest life and unable to purchase another plot land. "They are reliant on suitable, alternative provision being provided by this authority".
- 5.10 The applicant's agent also states that with 80% of the Borough covered by Green Belt, 27 % by AONB and with much of the remainder of the district within a flood risk area, scope for finding a suitable alternative site is very restricted. The

applicant's agent also states that the family have been unable to consider an alternative site as they do not have the finance to buy land elsewhere.

- 5.11 The statement also states that the applicant and his family were offered a site at the Windmill Hill Gypsy site in 2004, which they accepted, but was subsequently given to another family.
- 5.12 At the appeal regarding the applicant's last application concerning this site the Inspector concluded that the educational and health needs of the applicant and his family did not amount to very special circumstances. (It was known by the Inspector that the appellant's wife was pregnant at that time with their fourth baby). Indeed the Inspector stated at paragraph 18 of the decision letter:
- "Neither of these children have any special educational needs that could not be provided at another school".
- This statement has been proved to be true as the three older children of the applicant now attend Borough Green School (at the time of the last appeal, the two older children attended Ightham Primary School). Two of them have special needs that are met by Borough Green School.
- 5.13 The Borough Council has undertaken a GTAA survey jointly with Ashford, Maidstone and Tunbridge Wells Borough Councils. There are several unauthorised gypsy/traveller sites within the Borough which form part of a pattern of need which has been projected over the next 5 years.
- 5.14 Whilst level of need for gypsy/travellers has not yet been finalised within the Borough and cannot be until the Regional Spatial Strategy is adopted in 2008, on the basis of the GTAA findings the recognised need is likely to be in the order of 10 units over the next 5 years within Tonbridge and Malling Borough. This includes the currently unauthorised facilities in the Borough plus the growth expected from existing facilities and incomers to the Borough.
- 5.15 The Borough Council and KCC are currently pursuing opportunities for the positive provision of gypsy and traveller's sites and the Strategic Housing Advisory Board and Members have already endorsed funding to investigate the options for enhancing the existing Coldharbour site at Aylesford.
- 5.16 On the assumption that this project is successful and is implemented, this could provide accommodation for the occupiers of the existing unauthorised sites and this provision would be outside the Green Belt.
- 5.17 Reference should also be made to policies P6/11 of the Tonbridge and Malling Borough Local Plan 1998 and CP21 of the Tonbridge and Malling Local Development Framework Core Strategy. P6/11 states that proposals for the accommodation of gypsies will not be permitted unless it can be demonstrated that the occupants are gypsies and there are no overriding landscape, agricultural

conservation, highway or amenity objections to the site. Policy CP21 states that permission will be granted if all of the requirements listed under this policy are met. One of these requirements is that there is an identified need that cannot reasonably be met on an existing or planned site. The other requirements relate to site specific issues such as impact upon rural and residential amenity, accessibility to the site, and the sites being accessible to local shops, schools and other community facilities. This policy also states that there will be a presumption against the development of gypsy accommodation in the Green Belt unless there are very special circumstances.

- 5.18 The gypsy status of the applicant is not contested. In light of the above comments regarding the intended development of the existing gypsy site at Coldharbour, it is considered that whilst there is a need for additional gypsy sites within the Borough, this could be met by the planned expansion of the Coldharbour site.
- 5.19 I have referred earlier in this report to how the development the subject of this application erodes the openness of the Green Belt and is a significant encroachment into the countryside. Due to this I also consider that this development is contrary to policies P6/11 and CP21 which seek to protect the landscape qualities of rural areas.
- 5.20 In summary, the development is considered to be inappropriate development. The personal circumstances put forward by the applicant's agent do not, in my mind, amount to a case of very special circumstances. Current Government Guidance contained within PPS 3 (and other studies referred to by the applicant's agent) requires Councils to plan for the needs for the gypsy community. An assessment of the needs for gypsies and travellers has been undertaken by the Borough Council since the time of the appeal decision regarding this development on this site. This assessment has revealed that it is likely that in the region of 10 additional units would be required over the next 5 years within the Borough. Plans are in motion to investigate the expansion of the existing gypsy site at Coldharbour in Aylesford, which is not located within the Green Belt or an Area of Special Character and indeed is not as environmentally sensitive as the site the subject of this application. It is also apparent from the supporting statement that the applicant has not been proactive in investigating alternative locations within or outside the Borough since the last appeal was determined. Due to these factors, I do not believe that any other very special circumstances exist that should outweigh the principal objection to this inappropriate development.
- 5.21 This site is the subject of two existing Enforcement Notices requiring the cessation of the unauthorised use and the removal of the caravans, hard standings, fences, fence posts and gates from the site. Should an appeal not be forthcoming in respect of a decision to refuse permission for this development (or following the dismissal of an appeal) Members' Authority will be sought to take prosecution action against this unauthorised development.

6. Recommendation:

6.1 Refuse Planning Permission as detailed in statement received on 13.04.2007 and site location plan received on 13.04.2007 for the following reasons:

- 1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined in PPG2: Green Belts, policy SS2 of the Kent and Medway Structure Plan 2006 and policies CP3 and CP 21 of the Tonbridge and Malling Borough Local Development Framework Core Strategy 2007. The proposed development constitutes inappropriate development and is therefore contrary to policies SS2, CP 3, CP 21 and also policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998. (Note: It is expected that policy CP21 of the Core Strategy will be re-numbered to be policy CP20 upon adoption by the Council on 25 September 2007).
- 2 The development is contrary to policy CP 21 of the Tonbridge and Malling Borough Local Development Framework Core Strategy 2007 for the reason that the likely need for additional gypsy sites within the Borough could be met by the proposed expansion of an existing gypsy site in the Borough. (Note: It is expected that policy CP21 of the Core Strategy will be re-numbered to be policy CP20 upon adoption by the Council on 25 September 2007).
- 3 The development is contrary to Policy HP5 of the Kent and Medway Structure Plan 2006, which states 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 policy, none of which applies to the development proposed. For similar reasons, the proposed development is contrary to policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998 and policy CP 15 of the Tonbridge and Malling Borough Local Development Framework Core Strategy 2007. (Note: It is expected that policy CP15 of the Core Strategy will be re-numbered to be policy CP14 upon adoption by the Council on 25 September 2007).
- 4 The development, by virtue of the its nature and scale, detracts from the character of the rural locality and is, therefore contrary to policy P6/11 of the Tonbridge and Malling Borough Local Plan 1998 and Policy CP21 of the Tonbridge and Malling Borough Local Development Framework Core Strategy.
- 5 The Local Planning Authority does not consider that there is any justification, in the circumstances of the present application for overriding the planning policy objections.

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