

Offham **565527 157366** **15 February 2005** **TM/04/04249/FL**
Downs

Proposal: Retention of mobile home, touring caravan and utility room for
a gypsy family
Location: Land Rear Of Offham Methodist Church Teston Road Offham
West Malling Kent
Applicant: Joseph King

1. Description:

- 1.1 This is a retrospective application for the change of use of land for the stationing of a mobile home, touring caravan and a utility room for gypsy family.
- 1.2 This development is the subject of an existing enforcement notice served in January 2002 and was the subject of an appeal that was subsequently dismissed by the Inspector. The Enforcement Notice requires the unauthorised use of the site as a residential caravan site to cease and removal of the residential caravan.
- 1.3 A short statement is submitted in support of this application stating that the applicant has applied to the Tonbridge and Malling Housing Association (now Russett Homes) to help find a piece of land for his mobile home under Homelessness legislation. It also states that the applicant has been on a waiting list for Kent County Council sites.
- 1.4 Since this application was submitted, further structures have been erected on this land. A separate application (TM/06/01613/FL) has been submitted which seeks permission to retain a stable building on this site.

2. The Site:

- 2.1 The site lies within the Metropolitan Green Belt, outside the settlement confines of Offham and is adjacent to the Conservation Area. The site lies off an unadopted road, known locally as Hayes Lane, and behind the Methodist Church and the row of terraced properties known as Rose Terrace. The unadopted road is also PROW MR259. The site has been cleared of vegetation and contains a large area of hard standing.

3. Planning History:

TM/06/01613/FL Pending Consideration

Erection of stable building (retrospective).

TM/01/02699/FL	Refused	17 December 2001
	Appeal Dismissed	27 August 2002

Stationing of a mobile home and a touring caravan for a gypsy couple.

02/00077/UNAWK S	Enforcement Notice served	09 January 2002
	Appeal dismissed	27 August 2002

Change of use of site from agricultural land to a residential caravan site.

4. Consultees:

- 4.1 PC: Offham Parish Council remains fundamentally opposed to the planning application for the stationing of a mobile home and touring caravan on this land.

Its objections remain the same as in November 2001 when the PC objected to the original planning application for the stationing of a mobile home and touring caravan on this site.

The residential occupation of this site and the continual increase in buildings upon it represents inappropriate development within the Green Belt.

The site is outside the confines of the village.

The site is adjacent to a Conservation Area and such development is detrimental to the character of this part of the village.

The PC notes that whilst the application only refers to a mobile home and touring caravan and utility room, additional structures are identified on the submitted plan.

The PC notes that the applicant has made no attempt to justify their continued occupation of the land despite all applications being refused to date and appeals only being upheld in terms of time period allowed for the occupiers to vacate the site.

Whilst the PC is fully aware of the difficulties faced by the applicants in relation to the lack of suitable lawful accommodation for gypsies within the Borough, it still remains fundamentally opposed to the continued residential occupation of this Green Belt site in terms of the precedents it sets in relation to residential development within the Green Belt.

- 4.2 KCC (Highways): No objection.

- 4.3 EA: No objection but would offer the advice that that the Agency does not accept the promotion or proliferation of cess pools as a long term sewerage option in view of the potential environmental, amenity or public health problems arising from inadequate operation and maintenance. Discharge should be to the public sewer.

If, however, this is not feasible, then a package treatment plant should be installed, or if it is not practical, then a septic tank should be considered in preference to a cess pool.

4.4 Kent County Council (PROW): Public footpath MR259 runs along the boundary of the site so I have no comment to make.

4.5 Private reps (including public notices): 33/0X/0S/6R. The reasons for objection are:

- The site is Green Belt. I cannot see what special circumstances should override this.
- The development in an area subject to strict planning laws is totally unacceptable in terms of its appearance and use in this area.
- The amount of tarmac laid is totally out of keeping with the village environment.
- Allowing this development would set a precedent for similar developments.

5. Determining Issues:

5.1 The site is located 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"

5.2 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 buildings, and hard standing and indeed is a significant encroachment into the countryside. As such, the development is, in my opinion, inappropriate development within the Green Belt

5.3 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.

5.4 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.

- 5.5 The special circumstances put forward by the applicant appear to consist of the fact that the applicant has asked for help from Russett Homes for help to find land to station his caravans; he is on the County Council's waiting list for a pitch elsewhere in Kent, and has dependant children.
- 5.6 In my opinion these factors do not represent, either individually or cumulatively, a case of very special circumstances sufficient to outweigh this inappropriate development. Indeed, this was the conclusion of the Inspector determining the applicant's previous appeal against the refusal of planning permission ref. TM/01/02699/FL (and the Enforcement Notice) concerning this development.
- 5.7 Since the previous application and appeal were determined, the Borough Council has undertaken a Gypsy and Traveller Accommodation Assessment (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.
- 5.8 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.
- 5.9 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.
- 5.10 On the assumption that this project is successful and is implemented, this could provide accommodation for the occupiers of the site the subject of this application and this provision would be outside the Green Belt.
- 5.11 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.

- 5.12 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.
- 5.13 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.
- 5.14 The site lies adjacent to the Offham Conservation Area and therefore is subject to policy P4/4 of the TMBLP 1998. This policy requires development which adjoins a Conservation Areas to respect its setting and views into and out of it. The stationing of the caravans and associated structures is considered to detract from the setting of the Conservation Area. This view was shared by the Inspector determining the applicant's previous appeal concerning this development.
- 5.15 As has been stated above, this site is the subject of an Enforcement Notice requiring the cessation of the unauthorised use and the removal of the residential caravan 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 will be taken against the unauthorised development.

6. Recommendation:

6.1 Refuse Planning Permission 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 proposal 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 is contrary to policy P4/4 of the Tonbridge and Malling Borough Local Plan 1998, as it would harm the setting of the Conservation Area as the caravans and associated structures do not respect the character or quality of development within the Offham Conservation Area.
- 5 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.
- 6 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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