

**Hadlow (Hadlow)**      **563743 150437**    **19 September 2012**    **TM/12/01760/FL**  
Hadlow, Mereworth And  
West Peckham

Proposal:                    Change of use of site from Agriculture to the siting of one mobile home and one touring caravan for occupation by one Gypsy family  
Location:                    Land Rear Of The Harrow PH Cemetery Lane Hadlow  
Tonbridge Kent TN11 0LT  
Applicant:                    Mr Terry Wilson

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**1. Description:**

- 1.1 The proposal is to provide a hardstanding for a caravan (maximum measurements 20m x 6m) and a concrete yard for the stationing of a touring caravan. The site would be enclosed by a chestnut post and rail fence and a planted native mixed hedgerow. Soft planting and grass seedlings are also proposed either side of the access track and near to the caravan.
- 1.2 The documentation submitted with the application describes the applicant as a Gypsy coming from a traditional Kent Gypsy family who have travelled and lived within the village for 3 generations.

The documentation also contains the following supporting information:

- *The men of the family are horse dealers and landscape gardeners with the applicant also working locally as a cleaner. The applicant travels away during the summer months for work and to buy and sell horses, particularly around the south coast, and also attends Gypsy fairs on an annual basis.*
- *The Wilson family has been brought up in caravans since birth and with no site available for them at present have had to occupy Council Housing as a last resort. The applicant's partner was born and raised on Star Lane Gypsy site in Orpington, which currently has 22 plots and is full. She moved away to live closer to her partners family which is based around Hadlow village. The applicant, his partner and children are considered to be legitimate gypsies.*
- *The Wilson family is a close knit family and the applicant and his family wish to stay in the locality. They would be concerned at the prospect of moving to the Coldharbour site and consider that it would involve a great deal of upheaval, the children would be unable to continue their education in Hadlow and the family would be too far away to call on in a time of emergency. They have visited the Coldharbour site which is currently being occupied by one family. They have been advised that there is always trouble on the site and they are concerned that this will escalate with more pitches to be provided.*

1.3 Other documentation submitted with the application includes a letter of support from the occupiers of the adjoining site and copies of the Inspector's appeal decision relating to that site.

**2. Reason for reporting to Committee:**

2.1 Due to significant local interest.

**3. The Site:**

3.1 Comprises 0.11 hectares of land on the south side of Cemetery Lane. It is a fairly narrow site running parallel to Cemetery Lane. To the west lies The Harrow PH and to the east, separated by a field lies Hadlow Cemetery. To the south of the site lies Springfield Place and a paddock and to the north is open countryside.

3.2 The site would share an existing access with Springfield Place.

3.3 The site lies within the MGB.

**4. Planning History:**

TM/55/10166/OLD Refuse 25 October 1955

Erection of twenty two houses or bungalows.

TM/79/11496/OUT Refuse 1 June 1979

O/A for erection of dwelling houses (20-25).

TM/81/01426/FUL Refuse 4 February 1981

Siting of mobile home for temporary 5 year period.

TM/81/00364/FL Refuse, Appeal  
Dismissed 19 June 1981

Outline application for one agricultural works bungalow.

TM/88/00453/OA Refuse, Appeal  
Dismissed 6 June 1988

Outline application for dwelling or smallholding.

TM/91/00678/OA Application Withdrawn 20 June 1991

Outline Application for agricultural workers dwelling.

TM/91/688                      Refuse                                      20 September 1991

Stationing of caravan for the occupancy of an agricultural worker.

TM/91/01164/FL              Refuse, Appeal                              17 January 1992  
Dismissed

Change of use of mobile home from agricultural to dwelling. Alans Hectare Cemetery Lane Hadlow

TM/96/00217/FL              Refuse, Appeal                              31 May 1996  
Dismissed

use of land to site one mobile home to meet the needs of one gypsy family

TM/97/01719/FL              Refuse, Appeal                              12 January 1998  
Dismissed

temporary change of use of land to station one touring caravan as winter quarters from September 1997 to April 1998

TM/01/02236/FL              Refuse, Appeal Allowed                      11 January 2002

Change of use of land for stationing of mobile home for a gypsy family

TM/03/03831/RD              Grant With Conditions                      11 May 2004

Details of siting of caravans, colour of the non-touring caravan, landscaping and disposal of foul and surface water pursuant to TM/01/02236/FL (mobile home)

TM/04/02338/FL              Non-determination                              6 October 2004  
appeal, Appeal  
Dismissed

Siting of caravan/mobile home

TM/07/00013/ENF              Deemed Appeal Allowed                      13 August 2007  
NOT                                      (TM/12/01791/DEEM)  
Notice Quashed

Enforcement Notice - unauthorised stationing of caravan

TM/07/00014/ENF              Deemed Appeal Allowed                      13 August 2007  
NOT                                      (TM/12/01886/DEM)  
Notice Quashed

Enforcement Notice – unauthorised stationing of large building

TM/07/04325/RD    Approved

2 May 2008

Details of foul and surface water drainage and a scheme for the external treatment of the portable office buildings submitted pursuant to allowed appeals reference APP/H2265/C/07/2038704 and APP/H2265/C/07/2038707

**5. Consultees:**

5.1 PC: Object – encroachment into the Green Belt.

5.2 DHH: Recommendations as to drainage and caravan site licence.

5.3 Kent Highways: No objection.

5.4 Private Reps: 9/0X/0S/ 21R + site notice. Object for the following reasons:

- Site lies in the GB and development such as this should not be permitted
- Concern that this area will become a full scale Gypsy encampment
- Increase of traffic along a narrow lane
- Possible pollution
- Applicant already has a council house
- Contrary to the national and local planning policies
- Change the character of the area
- Concern that scrap metal etc will be stored on site
- Unfair to treat the Traveller community differently from those in the settled community
- Do not consider that 'special circumstances' have been demonstrated
- Concern that if allowed the site will expand as the adjoining site
- Questions Gypsy status as family have been part of the settled community for many years
- Detrimental to visual amenity and loss of view
- Loss of agricultural land
- Previous attempts at gaining planning approval have always been rejected
- No details of drainage provided

- Family should move to an established site
- Hedge would not fully screen site particularly in the dormant season
- Site will be unable to drain into Hadlow culvert following High Court Order to prevent flooding

Hadlow Park Residents Association: object for the following reasons

- Question the Gypsy status of the applicant
- Inappropriate development in the GB
- Would be visually intrusive
- Contrary to national policy
- Decision making should promote equality and fairness
- Concern that if allowed site would expand

## **6. Determining Issues:**

- 6.1 The main issues relate to the principle of the development in the Green Belt and its impact upon the rural character of the locality and the issues surrounding the accommodation needs of Gypsies and the provision of sites.

### **Planning Policy**

- 6.2 Relevant national policy is now the National Planning Policy Framework 2012 (NPPF) and the Planning Policy for Traveller Sites 2012 (PPTS). The former supersedes PPG2 and PPS7 which dealt with Green Belt and countryside protection respectively and the latter supersedes ODPM circular 01/2006 "*Planning for Gypsy and Traveller Caravan Sites*".
- 6.3 In terms of the countryside, the NPPF paragraph 17 (Core Principles) requires LPAs to recognise the intrinsic character and beauty of the countryside.
- 6.4 NPPF paragraphs 79-92 define the purposes of including land within the Green Belt, one such being to assist in safeguarding the countryside from encroachment. Paragraph 79 states that the Government attaches great importance to Green Belts which should prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being openness and their permanence.
- 6.5 As with previous Green Belt policy 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Use of land as a caravan site is 'inappropriate development'. When considering any planning application in the Green Belt, local planning authorities

should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 6.6 The use of land to station residential caravans is a material change in use of land and this form of development is not listed in the NPPF as appropriate development in the Green Belt and indeed, the PPTS explicitly states in paragraph 14 and in Policy E that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.

*"Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development."*

*Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only".*

- 6.7 The national policy in the PPTS states in Paragraphs 3 and 4

*"3 The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community".*

*4 To help achieve this, Government's aims in respect of traveller sites are:*

- that local planning authorities should make their own assessment of need for the purposes of planning*
- to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- to encourage local planning authorities to plan for sites over a reasonable timescale*
- that plan-making and decision-taking should protect Green Belt from inappropriate development*
- to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*

- *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*

- 6.8 The definition in the PPTS of A Gypsy/Traveller is “*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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such*”.
- 6.9 I note many of the representations received question the Gypsy status of the applicant. The fact that a Gypsy is domiciled (ie living in a permanent dwelling rather than a caravan) does not remove their Gypsy status neither does their status require them to ‘travel’.
- 6.10 Paragraph 23 indicates that LPAs 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.
- 6.11 Core Strategy policies CP3 and CP14 relate to the restrictions in the Green Belt and in the countryside and identify the types of development that may be acceptable. The need to provide a case of ‘very special circumstances’ in the Green Belt is also outlined as is the principle that all development not listed as appropriate will be refused. CP3 refers to national Green Belt policy - which is now the NPPF policy as outlined above – the two policy documents are consistent with each other.
- 6.12 Policy CP20 relates to Gypsies and site provision and 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’.

### **Green Belt and Impact on the Countryside**

- 6.13 The proposal is clearly inappropriate development within the Green Belt and thus substantially harms the Green Belt by definition. The development also represents an encroachment into the countryside which is contrary to one of the aims of the Green Belt.

- 6.14 The development harms the openness of the Green Belt, with the introduction of caravans and associated structures, the hard standing and use of land as residential garden.
- 6.15 As inappropriate development, there is an onus on the applicant to demonstrate that 'very special circumstances' exist such as to outweigh the strong policy objection to this proposal. Consideration of potential "very special circumstances" can include the personal circumstances of the applicant such as Gypsy Status and the family background and the provision of available pitches on authorised sites.

**Considerations in respect of Gypsy site provision**

- 6.16 The Borough Council carried out the Gypsy and Traveller Accommodation Assessment (GTAA) some time ago and that study revealed a need for additional accommodation by 2011. Subsequently the Council gave evidence to a Hearing aimed at reviewing the need for such accommodation in the context of a partial review of the South East Plan – that evidence accepted a need for 12 pitches but in light of the subsequent abandonment of this Partial Review that figure has not been confirmed. No subsequent or more reliable assessment of the level of need is currently available, although further studies and surveys are currently under way to update the GTAA.
- 6.17 In light of the general acknowledgement of the justification for additional provision within the Borough, the Borough Council has continued to be committed to the provision of additional pitches at the Coldharbour site in Aylesford to assist in the housing of Traveller families. Development is now well advanced on that site to construct the scheme permitted by planning permission ref TM/11/02523/CR3 (*Provision of 18 new caravan pitches arranged around a new road, and renewal of 8 existing pitches already accommodating 8 Traveller families (total 26), semi detached utility blocks, a children's play area, erection of a 3m high acoustic barrier adjacent to the A20 London Road, amenity lighting, landscaping and resurfacing of existing access road (KCC Ref: KCC/TM/0393/2011)*) and completion is anticipated early in 2013.
- 6.18 In addition to referring to the existing level of local provision and need for sites, and the availability (or lack) of alternative accommodation for the applicants, paragraph 22 of the PPTS contains further criteria to be assessed:
- other personal circumstances of the applicant
  - 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
  - LPAs should determine applications for sites from any travellers and not just those with local connections



- 6.19 Policy CP20 states that provision will be made (either through the LDF process or through specific planning permissions) for the number of plots specified in the South East Plan on sites that meet certain criteria, as set out in the policy.
- 6.20 The situation is that there is clearly still a present need for additional Gypsy accommodation within the Borough but it is intended that this is likely to be met when the Coldharbour pitches becomes available.

### **Human Rights and Equalities Considerations**

- 6.21 A key issue in this type of case is the European Convention on Human Rights as applied by the Human Rights Act 1998 and the Council's requirement to act in accordance with the Equalities Act 2010.
- 6.22 In terms of Equalities legislation, Romany Gypsies and Irish Travellers have 'protected characteristics' that must be considered in all decisions made by Public Authorities. The Council needs to coherently apply the new PPTS which itself has been subject to Equality Impact Assessment (EqIA) by the Government.

### **Availability of Pitches at Coldharbour**

- 6.23 Members of the Gypsy & Traveller community seeking a pitch on a public site (such as Coldharbour) are assessed and assisted for accommodation through Kent County Council's dedicated Gypsy and Traveller Unit (GTU) and not by the Local Housing Authority directly. Registration for accommodation and subsequent allocations are not through the same approach of choice based lettings that caters for the settled community when applying for available housing association properties. Vacant Gypsy and Traveller pitches on public sites are allocated through a specialised approach that takes into account a wider spectrum of factors, and the process for registering on the County's Gypsy and Traveller pitch waiting list reflects these requirements and is administrated by GTU. However, the requirement for a local connection to Tonbridge & Malling is a key element in that process.

### **Comments on the Private Representations**

- 6.24 The majority of the comments raised by the representations have been addressed in the body of this report. The outstanding issue relates to drainage. The application form states that foul sewage would be disposed of by a septic tank and the surface water via a soakaway. If the application is acceptable the applicant can be made aware of any issues this may raise by an informative.

## **7. Conclusion**

- 7.1 NPPF/PPTS policy as it applies to Travellers confirms the importance of Green Belt policies and the protection of the environment from 'inappropriate development'. There is a general presumption against 'inappropriate development'

within Green Belts. New Gypsy and Traveller sites in the Green Belt are inappropriate development, as defined in the NPPF. National planning policy on Green Belts applies equally to applications for planning permission from Gypsies and Travellers, and the settled population. Alternatives should always be explored before Green Belt locations are considered.

- 7.2 Provision of additional pitches for Travellers at Coldharbour will be in place by early 2013 and therefore there is no justification for the inappropriate and harmful use of land in the Green Belt.
- 7.3 The personal circumstances pertaining to the family have been taken into account, and I can appreciate the desire to live near other family members, but they are not considered to be sufficient justification for overturning the strong policy objection. Under the Race Relations Act and Equalities legislation, the provision at Coldharbour will provide for suitable accommodation for the occupants, even if they express a wish not to re-locate there.
- 7.4 In light of the above, I recommend that planning permission be refused.

**8. Recommendation:**

- 8.1 **Refuse Planning Permission** in accordance with the following submitted details: Letter dated 19.09.2012, Letter SUPPORTING INFORMATION dated 31.05.2012, Letter SUPPORTING INFORMATION dated 31.05.2012, Historic Decision Notice dated 31.05.2012, Photographs dated 31.05.2012, Location Plan dated 31.05.2012, Site Plan dated 31.05.2012, 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 paragraphs 89-91 of the National Planning Policy Framework 2012 and paragraph 14 of the Planning Policy for Traveller Sites 2012 and Policies CP3 and CP20 of the Tonbridge and Malling Borough Core Strategy 2007. An inadequate case of very special circumstances has been submitted in justification of the harm caused by inappropriateness and the harm to the openness of the Green Belt.
  - 2 The development, by virtue of its nature and scale, detracts from the openness of the Green Belt and the character of the rural locality and is therefore contrary to paragraphs 17 and 79 of the National Planning Policy Framework 2012, paragraph 23 of the Planning Policy for Traveller Sites 2012 and Policies CP14 and CP20 of the Tonbridge and Malling Borough Local Development Framework Core Strategy.

- 3 The development is contrary to paragraph 22 of the Planning Policy for Traveller Sites 2012 and Policy CP20 of the Tonbridge and Malling Borough Core Strategy 2007 for the reason that the likely need for additional gypsy pitches within the Borough will be met by the proposed expansion of an existing gypsy site in the Borough.

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