

Planning decisions October 2023

23/504087/FULL	Keilen Park Dickley Lane Lenham Maidstone Kent ME17 2DD	No Comment.
23/504226/FULL	Banky Meadow Farm Headcorn Road Sandway Kent ME17 2NE	No Comment.
23/504393/FULL	Raglands Dickley Lane Lenham Maidstone Kent ME17 2DD	No Comment
23/504323/SUB	3 Chilston Road Lenham Kent ME17 2PR	No Comment
23/504472/TCA	The Dog And Bear Hotel The Square Lenham Kent ME17 2PG	No comment subject to the considerations of the tree officer.
23/504484/TCA	1 Atwater Court Lenham Kent ME17 2PW	No comment
23/504496/TPOA	Lenham Square The Square Lenham Maidstone Kent ME17 2PQ	No Comment
23/504134/FULL	Warren Lands Caravan Site Lenham Heath Road Sandway ME17 2PD	See Appendix A
23/504594/FULL	The Haven 25 Headcorn Road Platts Heath Maidstone ME17 2NH	No Comment
23/504558/SUB	Part Norham Farm Lenham Heath Maidstone Kent ME17 2BT	No comment subject to approval of the drainage by N.E. The Parish was most surprised that the technical report does not include reference to the River Stour moratorium in respect of Stodmarsh. As detailed in the report any surface run-off will end up in the Stour. Run-off to SUDS will end up in the Greensand aquifer.

Appendix A

Application reference 23/504134 /FULL, change of use of land to a caravan site for use by an extended gypsy/traveller family. Warren Lands, Lenham Heath Road, Sandway, Maidstone.

1.0 The application site, its surroundings and locational characteristics, and planning history.

1.1 The application site comprises approximately 0.78 ha of predominantly agricultural land lying immediately to the north and east of Sandway Conservation Area. The hamlet of Sandway comprises approximately 17 dwellings. Sandway is located in relatively open attractive countryside approximately 1 km from the village of Lenham. Access to the village of Lenham would be made along the Headcorn Road. There are no footways between the application site and the village of Headcorn. The Headcorn Road is a busy rural road linking the A 20 to the north and the A274 to the south.

1.2 There are no bus services serving the application site, the nearest bus service being within the village of Lenham which is approximately 1 km walking distance from the site, along the busy and dangerous Headcorn Road which has no footways.

1.3 The site is mainly open pastureland which is clearly visible in the landscape both from the hamlet of Sandway, with its Conservation Area, and the surrounding rural roads. The application site is an important "green lung", highly visible from the surrounding area and adding to the attractive open rural nature of the hamlet of Sandway and the Conservation Area.

1.4 A dilapidated and uninhabitable structure, previously a mobile home, but now degraded, lies in the southern section of the application site.

1.5 A planning application reference 91/ 0560 for the continued use of land for the stationing of a mobile home was refused planning permission on 25 July 1991.

1.6 A subsequent appeal against an enforcement notice in relation to the use of the land for the

purposes of a caravan site was dismissed on 11 June 1992. The inspector concluded at paragraph 12 of the decision letter that:

“ the very fact of the presence of the mobile home and the touring caravan detracts, in my judgement, from the open appearance of the field, and effectively extends the built-up area of Sandway along Lenham Heath Road. In my opinion this constitutes demonstrable harm to an interest of acknowledged importance, namely the protection of the countryside from inappropriate development.”

Lenham Parish Council considers that very similar circumstances apply to the current planning application as applied to the above enforcement appeal when it was determined in 1992. The proposed stationing of three static caravans and the storage of three touring caravans and family day room would detract from the open appearance of the application site causing significant harm to the amenities of the open countryside.

1.7 It was subsequently decided that it was not expedient to progress further enforcement action against Mrs Sally Town, the then occupant of the mobile home on the application site , because she had lifelong connections with the hamlet of Sandway . Mrs Town was forced to vacate the mobile caravan on the site in 2016 because of her ill-health. At that time the property fell vacant.

1.8 An application , reference 22 /504647 , for a certificate of lawful use of development for the proposed use of the existing dwelling as a dwelling was sought on the application site on 25 September 2022. This application was refused on 10th of October 2022. A subsequent appeal against this refusal was dismissed on 23 January 2023 . In dismissing the appeal the Inspector, at paragraph 21, states that:

“The effect of the extant enforcement notice means that any residential use of the mobile home would be in breach of the notice. It follows therefore that any proposed residential use of the mobile home would be unlawful by virtue of s191 (2) (b) of the 1990 Act.”

The Inspector therefore concluded that the Borough Council's refusal to grant a certificate of lawful use or development was well-founded and that the appeal should fail.

1.9 A planning application, reference 22/505561, for the residential development of the application site was refused planning permission on 10th of March 2023. The reasons given for this refusal are, in summary, as follows:

1. The proposed development would have a detrimental urbanising effect on the existing character of the area consisting of a rural landscape with a failure to contribute positively to the conservation and enhancement of the landscape and its intrinsic value, contrary to national, local plan and Lenham Neighbourhood Plan policies.

2. The application site lies within an unsustainable location where future occupiers would be heavily reliant on the private motor vehicle to travel for their day-to-day needs. This would be contrary to the aims of sustainable development as set out in the local plan, the neighbourhood plan and national planning policies.

3. The proposal involves discharge into the Lenham Wastewater Treatment Works which flows into the River Stour Catchment and sufficient and effective mitigation measures have not been submitted to achieve nutrient neutrality contrary to local plan and national planning policies.

4. The absence of a phase 1 ecological survey means that the application fails to demonstrate that the proposal is acceptable in terms of potential damage to protected species and their habitat contrary to local plan and national planning policies. This

5. The absence of a heritage statement means that the application fails to demonstrate that the proposal is acceptable in terms of potential harm to the Sandway Conservation Area contrary to local plan and national planning policies.

Lenham Parish Council considers that each of the above reasons for refusal applies with equal force to the current planning application. An appeal has been submitted against the refusal of the

above planning application (reference 22/505561) but has yet to be determined.

2.0 The application Proposal.

2.1 The current application is for :

“Change of use of land to a caravan site for use by an extended Gypsy/Traveller family including demolition of existing dwelling, siting of 3no static caravans and 3no touring caravans , erection of a family day room , installation of a packet treatment plant , and ancillary works.”

2.2 The proposed dayroom scales at approximately 7.4 m x 7.1 m and comprises the following accommodation: living area, lounge, kitchen, utility room adjacent to the kitchen, and wet room. This building is single-storey with a ridged roof approximately 3 m in height. The Parish Council considers that this building is unduly large, disproportionate, and visually intrusive.

2.3 The application site comprises some 0.78 hectares (or 1.92 acres) of predominantly agricultural land. Because the application is submitted in the form of a change of use of land to a caravan site and because the application site comprises 0.78 ha the application should properly be considered as the change of use in principle of the entire site for use as a caravan site for an extended Gypsy/Traveller family across the entire 0.78 hectares. The application site is approximately equal in size to the entire hamlet of Sandway incorporating the Conservation Area. The Parish Council considers that the size of the site is disproportionate and would serve to overwhelm the hamlet of Sandway.

2.4 The application makes the claim that the land is brownfield land which has previously been redeveloped but there is no evidence to support this claim. From a visual inspection the land appears to be predominantly agricultural being used for grazing apart from the vestige of the mobile home which previously stood on the land.

2.5 The application also makes the claim that the site is supported by an existing septic tank but there is no evidence submitted to support this claim nor is there any evidence submitted to

support the proposition that any existing septic tank is either in an adequate state of maintenance or of an adequate size to support the development proposed.

2.6 The application is for an extended Gypsy/Traveller family but there is no evidence on the Borough Council website to give further or better details of this family or its history as a travelling family. It may be that confidential information has been made available to the Borough Council but, at that the time of making this representation, Lenham Parish Council does not have access to this specific information.

2.7 The planning history of the site indicates a confusing land ownership position. There is no evidence on the Borough Council website as to whether the current applicant is the owner of the site or whether notice has been served on the legal owner. The previous owner of the site was Mrs Sally Town and the Parish Council has reason to believe that the site is either currently owned by her descendants or is held in trust for them as legal owners of the site.

3.0 Planning Policy Considerations.

(a) Planning policy for Traveller sites, August 2015.

3.1 The DCLG document entitled 'Planning policy for Traveller sites' dated August 2015 contains current government planning policy for determining planning applications in relation to traveller sites. The application site lies in open countryside adjacent to the hamlet of Sandway but remote from Lenham village. The application site is agricultural in use and is not allocated for any development. Nor does the application site have a legal history of an established use for use as a caravan site.

3.2 Paragraph 25 of the Planning policy for Traveller sites reads as follows:

"Local planning authorities should very strictly limit new traveller site development in the open countryside 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”

Lenham Parish Council considers that the application site is not a sustainable or a suitable location for the proposed use. The site is open undeveloped countryside. The site is outside any area allocated in the development plan. The scale of the proposed application site is very similar in scale to the adjoining hamlet of Sandway . The proposed development would therefore not respect the scale of the nearby settlement but would tend to dominate the nearest settled community and would place undue pressure on local infrastructure.

3.3 Because of the unsafe nature of the local highway network it would not be possible to access schools or shops without having recourse to the private motor vehicle. This situation would be contrary to the presumption in favour of sustainable development . The application proposal is therefore contrary to paragraph 23 of the ‘Planning policy for Traveller sites’ which requires that planning applications should be assessed and determined in accordance with the presumption in favour of sustainable development.

(b) The National Planning Policy Framework (the Framework).

3.4 Paragraph 110 of the Framework states that in considering development proposals appropriate opportunities to promote sustainable transport modes should be taken up. It is not possible to provide sustainable transport modes to serve the appeal site because there is no bus service. The appeal site is not a sustainable location and the appeal site proposal does not constitute sustainable development. The appeal proposal is therefore contrary to the provisions of the Framework at paragraph 7 and 11.

3.5 Because of its isolated location away from any defined settlement the appeal site does not and cannot offer a genuine choice of transport modes. The appeal proposal is therefore contrary to the provisions of paragraph 105 of the Framework.

3.6 Because of its isolated location it would be necessary for the occupants of the appeal site to seek to use the private motor vehicle to gain access to employment, shopping, leisure,

education and other services. In this regard the appeal proposal is contrary to the provisions of paragraph 112(a) of the Framework which seeks for development to create places which are safe secure attractive and which minimise the scope for conflicts between pedestrians, cyclists and vehicles. The additional use the private motor vehicle in an unsuitable rural location, governed by the National speed limit, simply adds to the potential for conflicts between pedestrians, cyclists and vehicles. Any attempt by the occupants of the appeal proposal to engage in walking, cycling or equestrian activities on the local rural lanes would not create a safe and secure environment.

3.7 Paragraph 174 (b) of the Framework states that planning decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside.

3.8 Paragraph 194 of the Framework requires that in determining planning applications an applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 195 of the Framework requires that the impact of a proposal on a heritage asset should be taken into account to avoid or minimise any conflict between the heritage assets conservation and any aspect of the proposed. The submitted application does not contain a convincing assessment as to whether the proposal is acceptable in terms of demonstrable harm to the Sandway Conservation Area and its Listed Buildings.

(c) Maidstone Borough Local Plan, Adopted October 2017.

3.9 Policy SS1 of the Maidstone Borough Local Plan sets out the Borough Council's strategy and states that an expanded Maidstone urban area will be the principal focus for development. The rural service centres and larger villages identified within Policy SS1 will be the secondary focus for housing development. In other areas, such as the appeal site, protection will be given to the rural character of the area.

3.10 The application site does not lie within any of the areas identified within the local plan for additional housing or caravan site development. For the purposes of the Development Plan the site therefore lies within the countryside. Policy SP17 of the local plan states that development

within the countryside will not be permitted unless it accords with other policies within the local plan.

3.11 The local plan does not support the development of the site which lies within an unsustainable countryside location resulting in the occupiers of the proposal being heavily reliant on the private car to access services and facilities.

3.12 Policy DM15 in the Maidstone Borough Local Plan includes the following criteria which apply to applications for Gypsy, Traveller and Travelling Showpeople accommodation:

i. Local Servies, in particular, school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.

As stated above, it is not possible to reach local schools, the health centre and shopping in Lenham by means of foot, cycle or public transport because of the very busy and dangerous nature of the Headcorn Road which serves the application site.

ii. The development would not result in significant harm to the landscape and rural character of the area.

As also stated above, the application site is very prominent in the local landscape especially when viewed from the Conservation Area and the Headcorn Road. The development proposed would clearly result in significant harm to the landscape and rural character of the area.

(c) Lenham Neighbourhood Plan , made 14 July 2021.

3.13 Lenham Neighbourhood Plan (LNP) was made on 14th of July 2021.LNP therefore forms part of the Development Plan so far as the current application proposal is concerned.

3.14 LNP contains a number of policies which are aimed at securing good design throughout the Parish. PolicyD1 promotes design quality. PolicyAT1 promotes active travel. The proposal

promotes visually intrusive and poorly designed development in an area of attractive open agricultural countryside. LNP also contains Countryside Protection Policy CP 1, which seeks to protect the rural environment of the Parish such that there are no adverse impacts on the character of the countryside.

3.15 The Parish Council believes the application proposal is clearly contrary to the fundamental provisions of Lenham Neighbourhood Plan when taken as a whole.

3.16 LNP provides for an additional 1000 dwellings to be built at Lenham in the years to 2031. These additional dwellings are to be provided on a total of seven sites at sustainable development locations within the village close to and well served by the existing railway station, bus routes and the village centre. Provision is also made for bus services to be extended to serve the new development sites.

3.17 The Parish Council believes that the sites provided within LNP more than meet any existing demand for market, self-build or affordable housing or caravan site development within the parish as a whole including the hamlet of Sandway . The Parish Council does not therefore believe there is a requirement for any additional dwellings or caravan sites to be provided at this time in order to meet any unmet demand.

4.0 Chilston Quarry, Sandway, Appeal Decision dated 25th of June 2021. (APP/U2235/W/20/3254230)

4.1 An appeal against the refusal of an outline planning application for 15 dwellings at Chilston Quarry , Sandway some 500 m to the west of the current application site was dismissed on 25th of June 2021.

4.2 At paragraph 14 the Inspector commented as follows:

“Sandway as a hamlet offers no services and occupiers would need to travel to Lenham to access such services, or indeed further afield. There are no public transport services close to the

appeal site and although there is a footpath in the vicinity it does not connect the site to Lenham and requires walkers and cyclists to navigate an unlit and narrow road. I attempted to walk part of the route to Lenham and found that steep banks prohibit walkers from finding refuge along some parts of the road which is also fraught with dangers from passing traffic travelling at speed. I would not expect any person with children, disability or laden with shopping to attempt to navigate either Old Ham Lane or Sandway Road to reach Lenham.”

4.3 The Inspector commented further at paragraph 15:

“There are no sustainable transport modes available within reasonable and safe walking and cycling distance of the appeal site. Thus, it is highly probable that the private car would be required for every journey into and out of the site to access such services as shopping, education, medical services, employment, recreation and entertainment”.

4.4 Lenham Parish Council believes that the conclusions reached in this recent appeal decision at a location very close to the current application proposal are directly relevant. The Parish Council accepts that no two proposals are ever directly comparable but the Council believes that the current application site is a countryside location distant from the full range of services and as such is a highly unsustainable proposition. As with the quarry appeal decision the application site is, in principle, an inappropriate location at which to seek to accommodate additional residential or caravan site development.

5.0 Wyndrush , Platts Heath Appeal Decision dated 23rd June 2023. (APP/U2235/W/23/3314651).

5.1 An appeal against the refusal of a planning application (22/504669) for the replacement of a single bungalow with a development of seven houses was dismissed on 23rd of June 2023. The appeal site was a bungalow called Wyndrush which was located at 6 Headcorn Rd, Platts Heath. The Wyndrush appeal site is located approximately 1 km to the south of the current appeal site.

5.2 In dismissing the Wyndrush appeal the inspector at paragraph 7 commented as follows:

“It was confirmed during the hearing that aside from a primary school, there are no other employment, key services or facilities in Platts Heath . A range of services and facilities can be found in the rural service centre of Lenham, short distance away, but this would be too far along unlit and narrow country roads without footpaths to be accessible on foot or by bicycle to most and potential future occupants of the proposal.”

5.3 The Inspector at paragraph 44 concluded that the Wyndrush proposal would conflict with the development plan and there are no other considerations in that case which would indicate that planning permission should be granted.

5.4 The Parish Council believes that similar considerations apply to the current application proposal as applied in the Wyndrush case. There is clear conflict with the development plan strategy and no other considerations apply which indicate that planning permission should be granted.

6.0 Material Planning Considerations.

(a) Inappropriate, unsustainable location contrary to the provisions of the Development Plan and the Framework.

6.1 In summary the Parish Council believes the appeal proposal is unsustainable for the following reasons:

6.1.1 Sandway is a rural hamlet in the countryside and contains no local facilities whatsoever.

6.1.2 There are no public transport facilities available serving the appeal site.

6.1.3 As a consequence the occupiers of the appeal proposal would use the private motor vehicle to gain access to facilities either at Lenham or further afield.

6.1.4 The appeal proposal would be in clear conflict with policies SS1 and SP17 of the local plan which seek, amongst other things, to direct development to locations within the Borough that have greater access to facilities and which maximise opportunities for permeability and linkages to the surrounding area and local services.

6.1.5 The appeal proposal is also directly contrary to Countryside Protection Policy CP 1 in Lenham Neighbourhood Plan which seeks to protect the rural environment of the Parish such that there are no adverse impacts on the character of the countryside.

6.1.6 The appeal proposal is contrary to the Development Plan for the reasons set out above. The appeal proposal is also contrary to the Framework when taken as a whole, and especially paragraph 105 which seeks to steer development to locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

(b) Harmful impact on the character and appearance of the area.

6.2.1. The appeal site is an open attractive area of countryside comprising agricultural land which adds to the open setting at the edge of the hamlet of Sandway and its conservation area.

6.2.2 The appeal proposal would change the character of the area by eroding its current sense of openness. The development of the site would be to the detriment of the character and appearance of the countryside by adding a scatter of sporadic infill development at a sensitive location which forms part of the strategic gap between Sandway and Lenham .

6.2.3 The Parish Council believes the application proposal would have a detrimental urbanising impact on the existing rural character of the area and would fail to positively contribute to the conservation of the landscape and its intrinsic value.

(c) Nutrient Neutrality.

6.3.1 The Parish Council is aware of the complex legal situation which arises from the need to protect Stodmarsh Marshes and provide nutrient neutrality.

6.3.2 The Parish Council fully supports the position of Maidstone Borough Council in this regard. The Parish Council notes the potential difficulty which might arise in terms of maintenance should a plethora of different package (or packet) sewage treatment works be provided across the parish in an attempt to find a loophole within the implementation of proper the environmental safeguarding requirements of Natural England.

(d) Need for gypsy and traveller sites.

6.4.1 The Maidstone Borough Local Plan makes more than adequate provision for gypsy and traveller sites within the Borough.

6.4.2 The Borough Plan is currently under Review and the Review is being modified to update the current needs assessment and make updated further provision as necessary.

Conclusion

6.5 The Parish Council is not aware of any material planning reason why the provisions of the development plan and the Framework should be set aside in relation to this appeal. The Parish Council therefore respectfully requests that this appeal be dismissed and that planning permission be not granted to the development proposed.

