

PLANNING COMMITTEE MEETING

Date: Thursday 19 October 2017
Time: 6.00 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Boughton, Clark, Cox, English (Chairman), Harwood, Hemsley, Munford, Powell, Prendergast, Round, Spooner, Mrs Stockell and Vizzard

<u>AGENDA</u>	<u>Page No.</u>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Items withdrawn from the Agenda	
5. Date of Adjourned Meeting - 26 October 2017	
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting	
7. Disclosures by Members and Officers	
8. Disclosures of lobbying	
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
10. Minutes of the meeting held on 28 September 2017 adjourned to 5 October 2017 - Minutes of the adjourned meeting to follow	1 - 9
11. Presentation of Petitions (if any)	
12. Deferred Items	10 - 11
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Issued on Wednesday 11 October 2017

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

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22.	Chairman's Announcements	

PLEASE NOTE

The order in which items are taken at the meeting may be subject to change.

The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.

For full details of all papers relevant to the applications on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection by appointment during normal office hours at the Maidstone Borough Council Reception, King Street, Maidstone, Kent ME15 6JQ.

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact 01622 602030 or committeeservices@maidstone.gov.uk**. To find out more about the work of the Committee, please visit **www.maidstone.gov.uk**

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 28 SEPTEMBER 2017 ADJOURNED TO 5 OCTOBER 2017

Present: Councillor Round (in the Chair) and Councillors Boughton, M Burton, Clark, Cox, Harwood, Munford, Powell, Prendergast, Spooner and Vizzard
28 September 2017

Also Present: Councillors Mrs Hinder and Perry

192. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from the Chairman (Councillor English) and Councillors Hemsley and Mrs Stockell.

193. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor M Burton was substituting for Councillor Hemsley.

194. NOTIFICATION OF VISITING MEMBERS

Councillor Mrs Hinder indicated her wish to speak on the report of the Head of Planning and Development relating to application 17/500471 (Land North of Street Farm Cottages, Forge Lane, Boxley, Kent).

Councillor Perry indicated his wish to speak on the report of the Head of Planning and Development relating to application 15/505508 (Land East of The Paddocks, George Street, Staplehurst, Kent).

195. ITEMS WITHDRAWN FROM THE AGENDA

The Chairman announced that, due to the number of items on the agenda, the reports of the Head of Planning and Development relating to the following applications had been rolled over to the adjourned meeting of the Committee scheduled to be held on 5 October 2017:

17/503283 – Harrison Car Sales, Station Approach, Headcorn, Kent
17/503704 – Jubilee Square, High Street, Maidstone, Kent
17/501471 – Land at Valley Park School, New Cut Road, Maidstone, Kent

The reports of the Head of Planning and Development relating to appeal decisions and S106 contributions secured and held as at August 2017 would also be rolled over to the adjourned meeting of the Committee.

196. URGENT ITEMS

The Chairman stated that, in his opinion, the update reports of the Head of Planning and Development should be taken as urgent items as they contained further information relating to applications to be considered at the meeting.

197. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the reports of the Head of Planning and Development relating to applications 17/500117 (Unit 33 Adjacent Lordswood Industrial Estate, Gleamingwood, Drive, Lordswood, Kent), 17/500471 (Land North of Street Farm Cottages, Forge Lane, Boxley, Kent) and 17/501471 (Land at Valley Park School, New Cut Road, Maidstone, Kent), Councillor Harwood stated that he was a Member of Boxley Parish Council, but he had not participated in the Parish Council's discussions on the applications, and intended to speak and vote when they were considered.

Prior to consideration of the report of the Head of Planning and Development relating to application 17/502967 (Lake House, Church Road, Harrietsham, Kent), Councillor Powell stated that he was a Member of Harrietsham Parish Council. However, he had not participated in the Parish Council's discussion on the application, and intended to speak and vote when it was considered.

198. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

199. MINUTES OF THE MEETING HELD ON 7 SEPTEMBER 2017 ADJOURNED TO 14 SEPTEMBER 2017

RESOLVED: That the Minutes of the meeting held on 7 September 2017 adjourned to 14 September 2017 be approved as a correct record and signed.

200. PRESENTATION OF PETITIONS

There were no petitions.

201. DEFERRED ITEMS

17/502118 - ERECTION OF DWELLING HOUSE AND ENGINEERING OPERATIONS TO CREATE OFF ROAD PARKING - MOUNT LODGE, CHURCH LANE, BEARSTED, MAIDSTONE, KENT

The Development Manager advised the Committee that he had nothing further to report in respect of this application at present.

17/502072 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT FOR UP TO 210 DWELLINGS TOGETHER WITH ACCESS OFF FORSTAL

LANE, 1.85 HECTARES OF OPEN SPACE AND ASSOCIATED INFRASTRUCTURE (ACCESS BEING SOUGHT) - LAND SOUTH OF FORSTAL LANE, COXHEATH, KENT

The Development Manager advised the Committee that the applicant was arranging meetings with both the landowner, who owned the ransom strip, and Kent Highway Services regarding alternative access arrangements. He hoped to be in a position to report the application back to the Committee in October 2017.

16/506349 - VARIATION OF CONDITION APPLICATION IN RELATION TO INSTALLATION OF 6 NO. FLOODLIGHTING COLUMNS REF. MA/09/1616 (ALLOWED ON APPEAL) WITH AMENDMENT TO CONDITION 3) THE FLOODLIGHTING SHALL NOT BE USED BETWEEN 1ST MAY AND 31ST AUGUST IN ANY CALENDAR YEAR; AND CONDITION 4) THE FLOODLIGHTING SHALL NOT BE USED OUTSIDE THE HOURS OF 15:00-22:30 ON TUESDAYS, WEDNESDAYS AND THURSDAYS, 15:00-21:30 ON SATURDAYS AND NOT AT ALL ON ANY OTHER DAY OF THE WEEK - BEARSTED FOOTBALL CLUB, HONEY LANE, OTHAM, KENT

There was no update in respect of this application.

202. 17/500117 - EXTENSION TO THE EXISTING FACTORY - UNIT 33 ADJACENT LORDSWOOD INDUSTRIAL ESTATE, GLEAMINGWOOD DRIVE, LORDSWOOD, KENT

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Councillor Clarke of Boxley Parish Council and Mr Booth, for the applicant, addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members felt that the development would cause an unacceptable and unjustified loss of ancient woodland, which would have adverse effects upon an irreplaceable habitat and the ecological importance of the site. This would be contrary to policy DM3 of the final draft Maidstone Local Plan (2011 – 2031) and paragraph 118 of the National Planning Policy Framework. The benefits of the development were not considered to outweigh this significant harm.

RESOLVED: That permission be refused for the following reason:

The development would cause an unacceptable and unjustified loss of ancient woodland, which would have adverse effects upon an irreplaceable habitat and the ecological importance of the site. This would be contrary to policy DM3 of the final draft Maidstone Local Plan (2011 – 2031) and paragraph 118 of the National Planning Policy Framework. The benefits of the development are not considered to outweigh this significant harm.

Voting: 8 – For 1 – Against 2 – Abstentions

203. 17/500471 - ERECTION OF 2 NO. DWELLINGS WITH ASSOCIATED LANDSCAPING AND CAR PARKING - LAND NORTH OF STREET FARM COTTAGES, FORGE LANE, BOXLEY, KENT

All Members stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr Wilmott, for objectors, Councillor Clarke of Boxley Parish Council and Councillor Mrs Hinder (Visiting Member) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members felt that the development would cause an unacceptable impact upon the landscape character of the Kent Downs Area of Outstanding Natural Beauty and the village by reasons of the loss of openness and change in character through the introduction of built form, domestic paraphernalia and lighting, both by day and night. The development would particularly impact adversely upon the views from the west of the village and from the northern scarp slope of the Pilgrim's Way. The development was therefore contrary to policies ENV28, ENV33 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, policy SP17 of the final draft Maidstone Local Plan (2011 – 2031) and the aims of the National Planning Policy Framework. In addition, the proposal would constitute an unsustainable form of development, being located where future occupiers would be reliant upon unsustainable modes of transport contrary to the aims of the National Planning Policy Framework.

RESOLVED: That permission be refused for the following reasons:

1. The development would cause an unacceptable impact upon the landscape character of the Kent Downs Area of Outstanding Natural Beauty and the village by reasons of the loss of openness and change in character through the introduction of built form, domestic paraphernalia and lighting, both by day and night. The development would particularly impact adversely upon the views from the west of the village and from the northern scarp slope of the Pilgrim's Way. The development is therefore contrary to policies ENV28, ENV33 and ENV34 of the Maidstone Borough-Wide Local Plan 2000, policy SP17 of the final draft Maidstone Local Plan (2011 – 2031) and the aims of the National Planning Policy Framework.
2. The proposal would constitute an unsustainable form of development, being located where future occupiers would be reliant upon unsustainable modes of transport contrary to the aims of the National Planning Policy Framework.

Voting: 11 – For 0 – Against 0 - Abstentions

204. 15/505508 - CHANGE OF USE OF THE LAND TO THE EAST OF THE PADDOCKS TO RESIDENTIAL INCLUDING SITING OF 2 MOBILE HOMES, 2 TOURING CARAVANS AND DAY ROOMS/WASHROOMS FOR ACCOMMODATION OF GYPSY FAMILIES (AMENDED DESCRIPTION) - LAND EAST OF THE PADDOCKS, GEORGE STREET, STAPLEHURST, KENT

All Members except Councillors Boughton and Spooner stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Councillor Burnham of Staplehurst Parish Council and Councillor Perry (Visiting Member) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members felt that the proposal, by virtue of the significant harm to the rural character of this Low Weald country lane, arising from the encroachment and creation of the new access point, hardstanding areas and domestic paraphernalia into an important landscape space between allocated and residential sites (both settled and Gypsy and Traveller), would erode the rural character of the locality, contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policies DM15 and SP17 of the final draft Maidstone Local Plan (2011 – 2031) and policy PW2 of the Staplehurst Neighbourhood Plan. In addition, the lack of up to date information in respect of protected species, and in particular great crested newts, meant there was insufficient evidence to ensure that there would be no harm caused to protected species and this would be contrary to policies DM3 and DM15 of the final draft Maidstone Local Plan (2011 – 2031), Natural England Standing Advice, Circular 06/2005 and paragraph 118 of the National Planning Policy Framework.

RESOLVED: That permission be refused for the following reasons:

1. The proposal, by virtue of the significant harm to the rural character of this Low Weald country lane, arising from the encroachment and creation of the new access point, hardstanding areas and domestic paraphernalia into an important landscape space between allocated and residential sites (both settled and Gypsy and Traveller), would erode the rural character of the locality, contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and policies DM15 and SP17 of the final draft Maidstone Local Plan (2011 – 2031) and policy PW2 of the Staplehurst Neighbourhood Plan.
2. The lack of up to date information in respect of protected species, and in particular great crested newts, means there is insufficient evidence to ensure that there will be no harm caused to protected species and this would be contrary to policies DM3 and DM15 of the final draft Maidstone Local Plan (2011 – 2031), Natural England Standing Advice, Circular 06/2005 and paragraph 118 of the National Planning Policy Framework.

Voting: 11 – For 0 – Against 0 – Abstentions

205. 16/505932 - CHANGE OF USE OF LAND TO USE AS A RESIDENTIAL CARAVAN SITE FOR 2 GYPSY FAMILIES EACH WITH 2 CARAVANS OF WHICH NO MORE THAN ONE WOULD BE A STATIC MOBILE HOME, TOGETHER WITH ERECTION OF TWO AMENITY BUILDINGS, LAYING OF HARDSTANDING AND FORMATION OF NEW ACCESS - LAND REAR OF CHART VIEW, OFF CHART HILL ROAD, CHART SUTTON, KENT

All Members except Councillors Boughton and Spooner stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

RESOLVED: That consideration of this application be deferred until the expiry of the further public consultation set out in the urgent update report.

Voting: 11 – For 0 – Against 0 – Abstentions

206. 17/504144 - REMOVAL OF CONDITION 14 (SCHEME OF MITIGATION TO ADDRESS POOR AIR QUALITY SHALL BE PROVIDED) OF PLANNING PERMISSION 15/510179 (ALL MATTERS RESERVED) FOR REDEVELOPMENT WITH UP TO 65 DWELLINGS AND ASSOCIATED VEHICULAR AND PEDESTRIAN ACCESS, CAR AND CYCLE PARKING, STREET AND EXTERNAL LIGHTING, MAIN SERVICES, BIN STORES AND OTHER ANCILLARY DEVELOPMENT - 5 TONBRIDGE ROAD, MAIDSTONE, KENT

The Chairman and Councillors Boughton and Powell stated that they had been lobbied.

RESOLVED: That this application be rolled over to the adjourned meeting of the Committee scheduled to be held on 5 October 2017 to enable an Environmental Health Officer to be in attendance.

207. 17/502930 - CHANGE OF USE FROM CLASS A1 RETAIL TO USE OF PREMISES AS A TANNING SALON - 28A HIGH STREET, HEADCORN, ASHFORD, KENT

The Chairman and Councillors Boughton, Clark, Harwood, Powell, Prendergast and Spooner stated that they had been lobbied.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

Mr Kahn, an objector, and Councillor Pyman of Headcorn Parish Council addressed the meeting.

RESOLVED: That permission be granted subject to the conditions set out in the report and an additional informative as follows:

The applicant is advised to contact the Building Control Officers with regard to sound insulation and fireproofing within the building, and if these are required, to liaise with the Conservation Officer regarding the requirements of Listed Building Consent.

Voting: 11 – For 0 – Against 0 – Abstentions

208. 17/502967 - ERECTION OF A 4 BEDROOM DWELLINGHOUSE WITH ASSOCIATED DETACHED DOUBLE GARAGE IN REAR GARDEN, AND ERECTION OF A DETACHED DOUBLE GARAGE TO SERVE THE EXISTING PROPERTY - LAKE HOUSE, CHURCH ROAD, HARRIETSHAM, KENT

The Chairman and Councillors Powell and Prendergast stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development.

Councillor Stanley of Harrietsham Parish Council addressed the meeting.

RESOLVED:

1. That permission be granted subject to the conditions and informative set out in the report with the amendment of condition 7 (biodiversity) and additional landscaping conditions as follows:

Condition 7 (amended)

No development shall take place (including ground works and vegetation clearance) until details of how the development will protect and enhance biodiversity are submitted to and approved by the Local Planning Authority. These shall include but not be limited to the following: protective measures for reptiles and breeding birds, bird/bat nesting boxes integral to the structure of the building and within the site, retention of cordwood from trees felled within the landscape scheme, plus wildlife friendly drainage measures. The approved measures shall be installed prior to occupation and retained thereafter.

Reason: To enhance and protect biodiversity.

Additional Landscaping Conditions

The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. The submitted scheme shall also include the long term retention of existing boundary vegetation, additional native planting to maximise biodiversity value,

a planting specification, a programme of implementation and a five year management plan.

Reason: To ensure a satisfactory setting and external appearance to the development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory setting and external appearance to the development.

2. That the detailed landscaping scheme is to be approved in consultation with Ward Members, representatives of the Parish Council and the Political Group Spokespersons of the Planning Committee.

Voting: 6 – For 4 – Against 1 – Abstention

209. 17/502032 - ERECTION OF FRONT PORCH - 56 VALLEY DRIVE, LOOSE, MAIDSTONE, KENT

There were no disclosures of lobbying.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

RESOLVED: That permission be granted subject to the conditions set out in the report as amended by the urgent update report.

Voting: 11 – For 0 – Against 0 – Abstentions

210. 17/502264 - NEW DOUBLE GARAGE - 56 VALLEY DRIVE, LOOSE, MAIDSTONE, KENT

There were no disclosures of lobbying.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 11 – For 0 – Against 0 – Abstentions

211. 17/503428 - TWO STOREY SIDE AND REAR EXTENSION - 26 WALDRON DRIVE, LOOSE, MAIDSTONE, KENT

There were no disclosures of lobbying.

The Committee considered the report and the urgent update report of the Head of Planning and Development.

RESOLVED: That permission be granted subject to the conditions set out in the report.

Voting: 11 – For 0 – Against 0 – Abstentions

212. ADJOURNMENT OF MEETING

At 9.26 p.m., the Committee:

RESOLVED: That the meeting be adjourned until 6.00 p.m. on Thursday 5 October 2017 when the remaining items on the agenda will be discussed.

213. DURATION OF MEETING

6.00 p.m. to 9.26 p.m.

Agenda Item 12

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

19 OCTOBER 2017

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

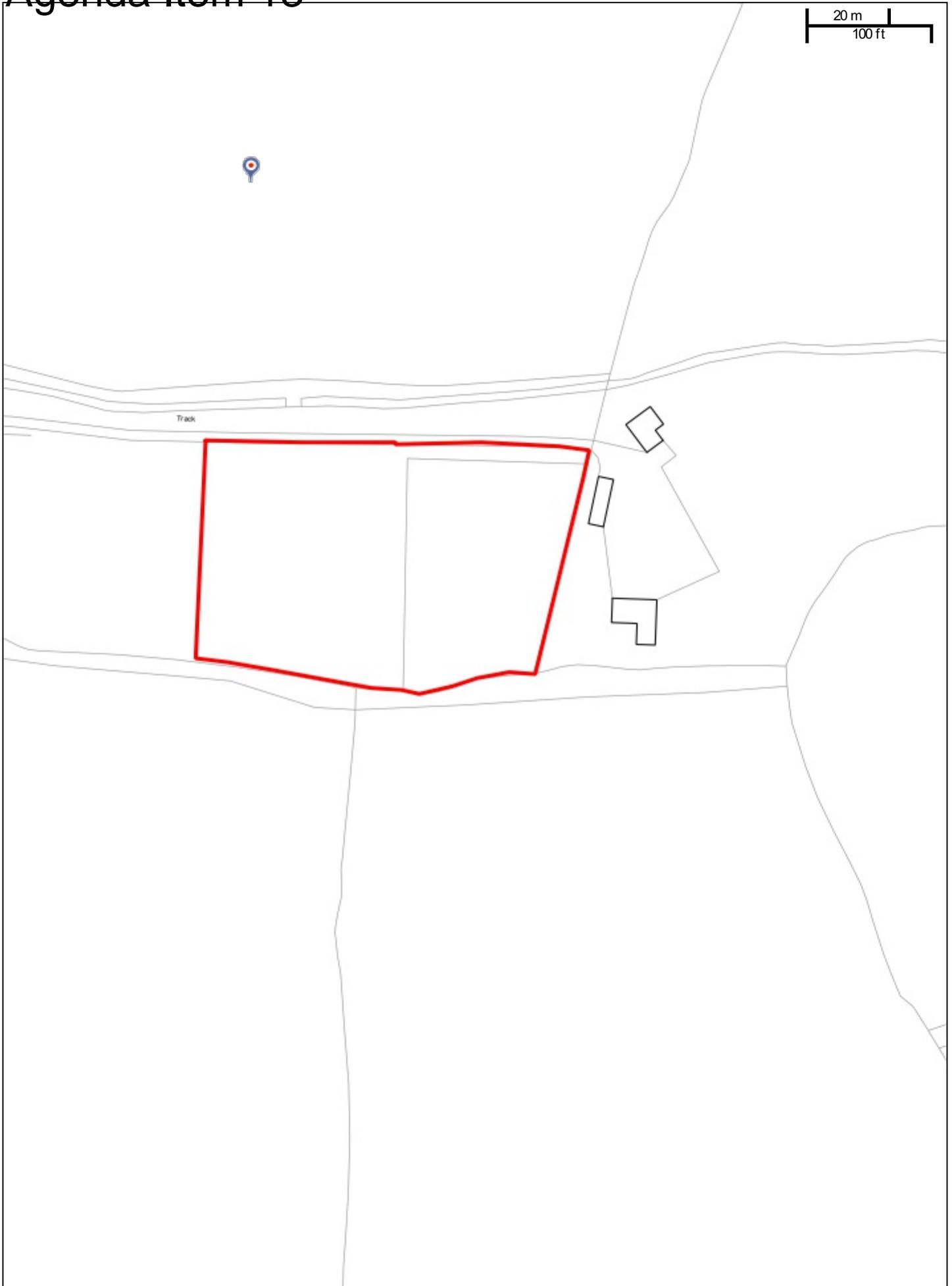
DEFERRED ITEMS

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

APPLICATION	DATE DEFERRED
<p><u>17/502118 - ERECTION OF DWELLING HOUSE AND ENGINEERING OPERATIONS TO CREATE OFF ROAD PARKING - MOUNT LODGE, CHURCH LANE, BEARSTED, MAIDSTONE, KENT</u></p> <p>Deferred to seek to secure (a) changes in the roof profile and bulk to reduce the mass of the development and (b) reductions in the height of the proposed slab levels, in order to mitigate the impact of the proposal on 1 Little Orchard.</p>	27 July 2017
<p><u>17/502072 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT FOR UP TO 210 DWELLINGS TOGETHER WITH ACCESS OFF FORSTAL LANE, 1.85 HECTARES OF OPEN SPACE AND ASSOCIATED INFRASTRUCTURE (ACCESS BEING SOUGHT) - LAND SOUTH OF FORSTAL LANE, COXHEATH, KENT</u></p> <p>Deferred to consider:</p> <p>The possibility of a southern access and mitigation of existing proposed access.</p> <p>The possibility of including contributions for a late night bus service within the heads of terms of the Section 106 legal agreement.</p> <p>Whether the contributions to Southborough Primary School have already been pooled and the feasibility of taking the contribution to Coxheath Primary School.</p> <p>Whether the eastern edge of the development could be rounded to provide a more natural boundary.</p> <p>Whether the open space can incorporate woodland and</p>	7 September 2017 adjourned to 14 September 2017

<p>scrub to soften views and enable a habitat for wildlife.</p> <p>Limiting the scale of building heights across the development.</p>	
<p><u>16/506349 - VARIATION OF CONDITION APPLICATION IN RELATION TO INSTALLATION OF 6 NO. FLOODLIGHTING COLUMNS REF. MA/09/1616 (ALLOWED ON APPEAL) WITH AMENDMENT TO CONDITION 3) THE FLOODLIGHTING SHALL NOT BE USED BETWEEN 1ST MAY AND 31ST AUGUST IN ANY CALENDAR YEAR; AND CONDITION 4) THE FLOODLIGHTING SHALL NOT BE USED OUTSIDE THE HOURS OF 15:00-22:30 ON TUESDAYS, WEDNESDAYS AND THURSDAYS, 15:00-21:30 ON SATURDAYS AND NOT AT ALL ON ANY OTHER DAY OF THE WEEK - BEARSTED FOOTBALL CLUB, HONEY LANE, OTHAM, KENT</u></p> <p>Deferred to consider the impact of the additional hours and month of the floodlighting on ecology grounds, specifically in relation to bats.</p>	<p>7 September 2017 adjourned to 14 September 2017</p>
<p><u>16/505932 - CHANGE OF USE OF LAND TO USE AS A RESIDENTIAL CARAVAN SITE FOR 2 GYPSY FAMILIES EACH WITH 2 CARAVANS OF WHICH NO MORE THAN ONE WOULD BE A STATIC MOBILE HOME, TOGETHER WITH ERECTION OF TWO AMENITY BUILDINGS, LAYING OF HARDSTANDING AND FORMATION OF NEW ACCESS - LAND REAR OF CHART VIEW, OFF CHART HILL ROAD, CHART SUTTON, KENT</u></p> <p>Deferred until the expiry of the further public consultation.</p>	<p>28 September 2017 adjourned to 5 October 2017</p>

Agenda Item 13



15/501537 - Maplehurst Lane

Scale: 1:1250

Printed on: 23/5/2017 at 14:14 PM by EllyH

REPORT SUMMARY

REFERENCE NO - 15/501537/FULL		
APPLICATION PROPOSAL Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective)		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to the views of Staplehurst Parish Council and due to an error in the drafting of condition 1.		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Lena Collins AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 27/04/2017

1.0 MAIN REPORT

1.1 This application has already been considered by the Planning Committee (report attached as **APPENDIX 1**) and at its meeting on the 25th May 2017 it resolved to grant planning permission subject to a number of conditions including condition (1) worded as below

“The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015 and shall only be occupied Lena and Tom Collins and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites”.

1.2 The condition was appended in error as it makes the consent personal to the applicant which was not what was intended by the report author.

1.3 The application is therefore referred back to the Planning Committee for its further consideration taking into account that in resolving to grant planning permission this was on the basis of a personal/ permanent planning permission.

2.0 APPRAISAL

- 2.1 Members originally determined this application on the basis of granting a permanent/personal G&T consent.
- 2.2 When this application was considered policy DM16 of the emerging local plan (ELP) specifically relating to G&T development was referred to. This policy was amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural character of the area. The requirement remains that the development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles , not located in an area at risk of flooding and wildlife considerations are taken into account.
- 2.3 At the time policy DM15 could only be given limited weight given the stage of the ELP in moving towards formal adoption. However the situation has now changed in that the ELP is now close to formal adoption meaning that policy DM15 can now be given significant weight in determining G&T applications.
- 2.4 Given the circumstances set out in the Committee report attached as **APPENDIX 1** and significant weight now to be given to policy DM15 of the ELP, and in light of the drafting error by the report author, it remains the case there is no planning justification for making occupation of this site personal to the applicant.

3.0 CONCLUSION

- 3.1 There is no planning justification for making any consent personal and that condition 1 be amended accordingly.

4.0 RECOMMENDATION

GRANT planning permission subject to the following conditions:

- (1) The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be

installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (4) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (5) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval of the details and retained as such at all times thereafter.

If the details are not (a) submitted and (b) implemented within the stated periods the use of the site for gypsy and traveller purposes shall cease, the mobile home, touring caravan any hardstandings and other related development be removed and the site restored to its previous condition.

Reason: in the interests of health and safety and to prevent water pollution.

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

REPORT SUMMARY

REFERENCE NO - 15/501537/FULL		
APPLICATION PROPOSAL Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective)		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION - Approve		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Lena Collins AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 27/04/2017

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with a west to east orientation. Existing gypsy and traveller development abuts the site to the east and west and the planning status of these (and other sites) are shown on the plan attached as **APPENDIX 1** to this report. The site is set back over 100 metres from Maplehurst Lane. There is an existing mobile home in the south west corner of the plot. The wider plot is mainly made up of an area of open paddock with hardstandings.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 This is partly retrospective application with planning permission sought to retain an existing mobile home to be used for gypsy and traveller accommodation by the applicant and her family. Planning permission is also sought to erect a utility room

having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance coming into force in August 2015 makes clear that persons claiming gypsy and traveller status must provide evidence to show they intend to carry on a nomadic /traveller lifestyle. The definition of a nomadic lifestyle requires adult occupants to move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:

- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children being Maisie Collins (10 years) and Selena Collins (6 months)
- Wants running water and central heating.
- Will continue going to gypsy gatherings such as Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
- Travel to fairs and horse fairs throughout the year to do business and socialise.
- Trade in horses and try to find work in the surrounding areas including garden and tree work.
- At fairs carry out flower arranging while selling articles for babies.
- Absences can be up to 3 months or more.
- Daughter now settled in local school, have permanent doctors while have another baby daughter.
- Want a stable base for the family but once children are older will continue to travel.

- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.

- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.

- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.

- 3.3 The application site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

Reason: To accord with the terms of the application and in the interests of the visual amenity.

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the west is another G&T site for which retrospective planning permission is being sought under ref:MA/15/501528 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The above site abuts the eastern boundary of Blossom fronting Maplehurst Lane (also falling within the Perfect Place site) and for which permanent planning permission was granted under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) and a copy of the judgement is attached as **APPENDIX 2**.
- 3.6 In summary the claimant challenged the lawfulness of the decision relying upon five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. The planning application in this case will now be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Local Plan

- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies:SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 This application has been the subject of 3 separate consultations in connection with the application as (a) originally submitted (b) on receipt of details of the applicant's gypsy and traveller status and (c) revised siting of the mobile home.

5.2 9 objectors have made representations and these are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T as she wants to settle down and is no longer pursuing a nomadic lifestyle as she has a permanent address and takes holidays.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.3 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Councils current GTAA allocation based on an outdated definition of gypsies and is therefore no longer reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.4 Weald of Kent Protection Society: Object on the following grounds:

- Applicant assumes her gypsy status qualifies her for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore, her application is sent from an existing address in a residential area, and the Planning Authority needs to question her inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.5 Heritage Protection: Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 CONSULTATION RESPONSES

6.1 Staplehurst Parish Council: Wish to see the application refused for the following reasons:

- Will compound local drainage and flooding problems.
- Result in overintensive development that will dominate the nearest settled community.
- The cumulative impact of the development was unsustainable and would intensify existing piecemeal and irregular development in the countryside contrary to policy.
- Site not allocated for development in the draft local plan or the Staplehurst neighbourhood plan.

- 6.2 **Kent Highways:** Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;
- Understand the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.
- 6.3 **Environment Agency:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend the development is the subject of a Flood Risk Assessment (FRA)
- 6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:
- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 The development is shown on drawings received on the 23rd March 2015 with the siting of the mobile home amended on the 16th March 2016. Letters relating to the applicants gypsy status were received on the 13th November 2015 and 24th June 2016.

8.0 APPRAISAL:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan. Policy states ENV 28 states that:

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

- 8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states

that proposals which accord with other policies in the plan and do not harm the countryside will be permitted.

- 8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural character of the area. The requirement remains that the development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles , not located in an area at risk of flooding and wildlife considerations are taken into account.
- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented a departure from the Development Plan. In such circumstances it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e)sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development.
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration as does the Staplehurst Neighbourhood Plan. Policy PW2 of the plan states, amongst other things, that new development will not be permitted in open countryside except in exceptional circumstances.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.

- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

- 8.14 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).
- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- 86 Permanent non-personal mobiles
 - 20 Permanent personal mobiles
 - 3 Temporary non-personal mobiles
 - 33 Temporary personal mobiles
- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 8.18 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41

additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.
- 8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply if the development is found to be unacceptable for other reasons.

Gypsy status

- 8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

- 8.22 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 8.23 In response to the above the applicant has advised the following:
- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children.
 - Wants running water and central heating.
 - Will continue going to gypsy gatherings like Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
 - Travel to fairs and horse fairs throughout the year to do business and socialise.
 - Trade in horses and try to find work in the surrounding areas like garden work and tree work.
 - At fairs also carry out flower arranging while selling articles for babies.
 - Absences can be up to 3 months or more.

- Daughter now settled in local school, have permanent doctors while have another baby daughter.
 - Want a stable base for the family but once children are older will continue to travel for work and other reasons.
- 8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.
- 8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.
- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.28 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.29 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account. Policy PW2 of the Staplehurst

Neighbourhood Plan seeks to limit new development in the countryside only to that required in exceptional circumstances.

- 8.30 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.31 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.
- 8.32 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.33 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.34 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.35 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.36 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance in excess of 120 metres with access onto an existing track. The mobile home stationed is tucked away in the south west corner of the site in an angled relationship with the site boundary. Nevertheless notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained views are available to through the access. As such the mobile home is visible and therefore has an impact on the character of the countryside and landscape quality of the SLA although this is relatively well contained in the wider landscape.
- 8.37 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap

through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.

- 8.38 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings sited deep within the application site and to the east of the mobile home. Given their small size and unobtrusive siting it is considered they have little impact on the rural character or landscape quality of the area.

Cumulative Impacts:

- 8.39 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area.
- 8.40 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.41 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan is now part of the development plan in the determination of this application it is silent on specific G&T and landscape issues though policy PW2 does seek to prevent new development in the countryside except in exceptional circumstances.
- 8.42 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value.
- 8.43 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oaks trees as

imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.

- 8.44 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.45 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.
- 8.46 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.47 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.48 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it would appear inconsistent to adopt a different approach to this development.
- 8.49 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.50 Given (a) the sites set back from Maplehurst Lane and (b) unobtrusive siting of the mobile home, utility room and stable block and (c) the nearest houses are sited over 170 metres to the west and more than 300 metres to the south it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.51 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.52 Objections to the development also include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.53 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.54 As this is a retrospective application and as the site is covered by the mobile home with the remainder laid out as hardstanding or grassed, it clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.55 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.56 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.57 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.58 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage has also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.59 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using

its pollution prevention powers will be far better placed to take immediate action in such an eventuality.

8.60 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

8.61 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant policies. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area.

9.2 The key conclusions are considered to be as follows:

- The occupants of the site fall within the revised definition of gypsies and travellers.
- The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
- Has not resulted in any material loss of amenity to dwellings in the locality.
- Is acceptable in sustainability and wildlife terms.
- Is acceptable in its highway impacts.

9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 RECOMMENDATION – GRANT subject to the following conditions

(1) The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015 and shall only be occupied Lena and Tom Collins and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (4) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (5) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

The Council's approach to this application:

Planning Committee Report

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

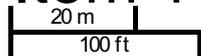
As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
~~The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.~~



17/500917 - Meadowcroft

Scale: 1:1250

Printed on: 11/10/2017 at 11:02 AM by EilyH

REFERENCE NO - 17/500917/FULL		
APPLICATION PROPOSAL - Proposed erection of infill detached chalet style dwelling with garaging, parking provision and highway access.		
ADDRESS – Meadowcroft, Maidstone Road, Headcorn, Kent		
RECOMMENDATION - REFUSE		
SUMMARY OF REASONS FOR RECOMMENDATION – The proposals are considered to cause significant harm to the character of the countryside contrary to existing and emerging policies.		
REASON FOR REFERRAL TO COMMITTEE - Headcorn Parish Council has requested committee consideration.		
WARD Headcorn	PARISH/TOWN COUNCIL Headcorn	APPLICANT Mrs S Sturgeon AGENT Consilium Town Planning Services Limited
DECISION DUE DATE 25/9/17	PUBLICITY EXPIRY DATE 10/4/17	OFFICER SITE VISIT DATE 20/3/17
RELEVANT PLANNING HISTORY (inc. appeals and relevant history on adjoining sites):		
16/506427/FULL - Erection of detached chalet style dwelling with garaging, parking and other associated works – Refused (see appendix)		
MA/11/1066 - Erection of a detached log cabin to be used as an annexe - Permitted		
MA/07/1179 - Construction of a new chalet bungalow within land adjacent to Meadowcroft - Refused and Appeal Dismissed		

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located in a rural location approx. 1.2km north of Headcorn village centre. This is land within the Low Weald Special Landscape Area. Meadowcroft is a bungalow on a large plot and is one of a number of detached properties fronting the busy A274. The house forms part of a loose scattering of development south of the crossroads.
- 1.02 The house has ancillary buildings behind it and has vehicular access onto Stonestile Road to the north and an access into the application site at the south eastern corner of the overall plot. The site for the dwelling is a grassed lawn with some small trees on site. There is a mature hedge and small verge on the road frontage.

2.0 PROPOSAL

- 2.01 The application proposes the erection of a new detached dwelling to be located on the garden land to the south of Meadowcroft. The existing access would be closed and a new access would be formed to the north, in front of the existing house.

- 2.02 The new dwelling is shown to be in a chalet bungalow style with an overall height of 7.6m. It would have a detached double garage off its southern flank and a parking and turning area to the front of the house. Materials would involve brickwork under a plain tile roof. The garage would be of complementary design and materials.

3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough-Wide Local Plan 2000 Policies: ENV6, ENV28, ENV34
Final Draft Maidstone Local Plan 2017 Policies: SS1, SP17, DM1, DM2, DM3, DM23, DM30
- 3.02 Paragraph 216 of the NPPF sets out the factors which influence the weight to be given to emerging LP policies which are preparation stage, extent of unresolved objections and consistency with the NPPF.
- 3.03 Maidstone Borough Local Plan (2016) was submitted to the Secretary of State for examination on 20 May 2016. The Local Plan Inspector issued his Report on the Examination of the Maidstone Borough Local Plan on 27 July 2017. The Report is accompanied by an appendix containing the 'Main Modifications'. The Inspector concludes that, with the incorporation of the 'Main Modifications', the submission Maidstone Borough Local Plan is sound. The adoption of the Local Plan will be considered at the next meeting of the Council on 25 October 2017.
- 3.04 In these circumstances, it is considered that approaching full weight should be afforded to the Maidstone Borough Local Plan incorporating the 'Main Modifications' in the determination of the current application. The policy references given above reflect those provided in the 'Main Modifications'.

4.0 LOCAL REPRESENTATIONS

- 4.01 Headcorn Parish Council: "The Council wish to see this application approved. Referral to the planning committee is required if the planning officer is minded to refuse the application
- 4.02 Local residents: No views received.

5.0 CONSULTATIONS

- 5.01 KCC Highways and Transportation has no objection, commenting that the replacement access, boundary treatment and visibility splays of 120m in each direction are acceptable.
- 5.02 Shenley Farms (Aviation) Ltd. points out the presence of the nearby airfield.
- 5.03 Mid Kent Environmental Health: has no objection subject to a condition to address the issue of external noise and the impact on the living conditions of the occupants of the proposed house.

6.0 APPRAISAL

Main Issues

- 6.01 The main issues in this case centre on the potential harm to the character of the countryside of a new dwelling in this location; and the impact on highway safety.

The Principle of the Development

- 6.02 This application is a revised version of the scheme previously put forward under refused application 16/506427/FULL; the main change being amendments to access to resolve the highways-based reason for refusal on that earlier application. That earlier application was refused for the following reasons:

1. *The site is outside of any settlement as defined in the Maidstone Borough-Wide Local Plan 2000 and the Maidstone Borough Local Plan: (Regulation 19) Submission Version 2016. Development of this site with a new house and associated development would unacceptably erode the openness of the area and consolidate the loose pattern of built environment in the locality. This would result in significant harm to the character of the countryside contrary to Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan 2000; Policies SP17, DM1, DM3, and DM34 of the Maidstone Borough Local Plan: (Regulation 19) Submission Version 2016; and the advice in paragraph 17 of the National Planning Policy Framework 2012 that states that planning should recognise the intrinsic character and beauty of the countryside.*
2. *The application has failed to demonstrate that safe vehicular access can be provided onto the A274 without harm to highway safety (in terms of indicating that sufficient visibility splays can be provided). The application is therefore contrary to Policy DM1 of the Maidstone Borough Local Plan: (Regulation 19) Submission Version 2016.*

- 6.03 Looking at Development Plan Policy, both the existing and the emerging Local Plan place the application site beyond the defined limits of any settlement and it is therefore subject to those policies that seek to restrict new residential development in the defined countryside. The application site is also within the Low Weald Special Landscape Area where 'saved' Local Plan Policy ENV34 applies and the emerging plan continues that theme by designating this land as part of a Landscape of Local Value. Policies in the Final Draft Maidstone Local Plan 2017 should now be regarded as having a status of approaching full weight as that Plan is now nearing full adoption. Policy SP17 of the emerging plan indicates that new housing development in the countryside that is considered to cause harm to character should be refused and therefore the extent to which the proposals cause harm requires close examination.

- 6.04 It is also necessary to consider whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified.

- 6.05 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should be able to demonstrate a five year supply of housing land: given the final comments of the Local Plan Inspector, the Council can clearly now demonstrate an adequate housing supply and therefore countryside protection policies can be given full weight.

Location

- 6.06 In terms of the location of the site, the NPPF advises that when planning for development, i.e. through the Local Plan process, the focus should be on existing

service centres and on land within or adjoining existing settlements. The site is more 'remote' than that but has access to a regular bus service to Maidstone and has a roadside footway. I have some reservations as to whether this locality constitutes a sustainable location but, on balance, I do not consider that a refusal on the basis of an unsustainable location is warranted in this case.

Impact on the Character of the Countryside

- 6.07 The impact of the development on the character of the area is a fundamental issue for consideration. In my view, although there are pockets of more densely developed housing, the prevailing pattern of development in this patch of ribbon development is generally loose and irregular. The gaps between buildings in the pattern of frontage development are important in reinforcing the rural character of this locality. The gaps between properties fulfil a role in avoiding the coalescence of the site frontage.
- 6.08 In this case there is a large gap between Meadowcroft and its neighbour that would be largely filled by the development. The increase in built development here would result in a significant diminution of the gap between properties: physically, it would permanently reduce the separation between properties: visually it would introduce built form onto undeveloped land, reducing the openness of this part of the countryside. I recognise the presence of the roadside hedge but that cannot be relied upon to adequately screen the development, particularly given that it would need to be breeched to form the new access and associated splays.
- 6.09 As well as the refused application 16/506427/FULL, a new house on this site has previously been rejected on appeal (reference MA/07/1179) and I include a copy of that appeal decision as an appendix hereto. At paragraph 7 the Inspector clearly expresses his concern as to the impact of the development on the character of the countryside. I would contend that the character of the locality has not changed significantly since then.
- 6.10 I consider that development of this site would unacceptably erode the openness of the area, resulting in harm to the character of the countryside. This runs contrary to 'saved' and emerging policies; and the advice in Paragraphs 17 and 109 of the NPPF that planning should recognise the intrinsic character and beauty of the countryside. If this scheme is allowed it is difficult to see how the development of further parcels of land in this locality could be resisted.
- 6.11 Given the design of neighbouring properties, I have no objection to the design detail of the development. As to landscaping, there are some trees on site that would be affected but none are of significant amenity value in my judgement. I am satisfied that the issue of landscaping could be adequately dealt with by condition. In terms of ecology this is a managed garden that is unlikely to be of significant ecological value.

Residential Amenity

- 6.12 The development would have residential neighbours but it seems to me that the space between dwellings would be such that the scheme would not adversely affect the amenities of neighbours in terms of loss of light, outlook and privacy. I do not believe that there would be significant noise and disturbance to local residents as a result of the development. I see that the issue of the impact of external noise on the occupiers of the dwelling was previously not considered to be sufficiently problematic to lead to an objection and I see no reason to change that stance here.

Highways Issues

- 6.13 On highways issues, the main road onto which access would be formed is busy and traffic is fast moving. However, looking at the Highway Officer's comments there is no objection to the new access and the officer notes that the replacement offers improved visibility over the existing access which would be closed. The previous application failed to demonstrate that the 120m each way visibility splays could be achieved but a topographic survey drawing has now been provided which shows those splays. On this basis, the previously imposed highways-related reason for refusal can be removed.

7.0 CONCLUSION

- 7.01 In terms of sustainable development, this scheme to provide one new house would provide some very modest benefits to the local economy and, from the social aspect, to the housing supply. However, in my consideration it fails to meet the environmental dimension, given the harm that I have identified. I am not convinced, therefore, that the proposal can be regarded as sustainable development. Accordingly, it does not enjoy the presumption in favour of such development, as set out in the Framework.
- 7.02 I find that the negative aspects of this scheme are such that they significantly and demonstrably outweigh the benefits of the application when assessed against the policies of the NPPF as a whole. I recommend that the application be refused.

8.0 RECOMMENDATION

REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS:

The site is outside of any settlement as defined in the Maidstone Borough-Wide Local Plan 2000 and the Final Draft Maidstone Local Plan 2017. Development of this site with a new house and associated development would unacceptably erode the openness of the area and consolidate the loose pattern of built environment in the locality. This would result in significant harm to the character of the countryside contrary to Policies ENV28 and ENV34 of The Maidstone Borough-Wide Local Plan 2000; Policies SP17, DM1 and DM30 of the Final Draft Maidstone Local Plan 2017; and the advice in paragraph 17 of the National Planning Policy Framework 2012 that states that planning should recognise the intrinsic character and beauty of the countryside.

Case Officer: Geoff Brown

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



Appeal Decision

Site visit made on 12 May 2008

by **Martyn Heyes** BSc(ENG), MEng, PhD,
CEng, FICE, FIHT

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@dps.gsi.gov.uk

Decision date:
11 June 2008

Appeal Ref: APP/U2235/A/08/2066167

Meadowcroft, Maidstone Road, Headcorn, Kent TN27 9RS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs S Sturgeon against the decision of Maidstone Borough Council.
- The application Ref MA/07/1179, dated 1 June 2007, was refused by notice dated 11 October 2007.
- The development proposed is the construction of a new chalet bungalow within land adjacent to Meadowcroft.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is whether there are any material reasons to justify the proposed development in the light of the objectives of national and local policies to promote sustainable development and safeguard the character of the countryside.

Reasons

3. Meadowcroft is a bungalow in a large plot, and is one of a small group of isolated properties which front onto the A274 Primary Road, some 1.2km north of the village of Headcorn. Despite the presence of a number of recently built homes, the area is designated as a Special Landscape Area and its character is defined by the surrounding farmland.
4. Both national and local policies require new development to be strictly controlled in such a location, and set stringent tests for the justification of exceptions. There is no suggestion that this proposal should be an exception on the grounds set out in Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7) or that it is one of the recognised exceptions set out in Policy ENV28 of the Maidstone Borough-Wide Local Plan (LP).
5. The appellant's intention is to provide affordable housing for her daughter and to help to alleviate to the present deficiency of such accommodation in the locality. Although PPS3: *Housing* encourages local authorities to consider the release of affordable housing sites in rural areas, it specifically refers to sustainable communities in market towns and villages. However, this is not a

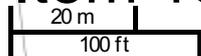
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definition which I would associate with this group of houses which lie beyond what I would consider easy walking distance of the village, and have no local facilities.

6. The Council is on target to meet its general housing allocations and has made provision for affordable housing in Headcorn in the recent past. While I have noted the appellant's family circumstances, it is not clear to me how these relate specifically to this proposal. I note also the appellant's unilateral undertaking which seeks to ensure that the dwelling would remain in perpetuity occupied by persons eligible for affordable housing. However, it seems to me that, even discounted, the proposed 4 bedroom chalet-style house with a double garage would not be consistent with the normal provision of affordable housing. As a result, I would expect this to lead to pressure for the property to be offered on the open market in due course. These circumstances contrast sharply with the modest bungalow recently approved in Kingwood, which has been suggested as a possible precedent.
7. The proposed development would act to consolidate the existing spasmodic development and, by reason of its size and bulk, would have a significant impact on the openness of the locality. In my assessment this would not accord with saved LP Policy ENV28 which seeks to restrain harmful development in the countryside, or saved Policy ENV34 which requires priority to be given to protecting the landscape over other planning considerations in this Special Landscape Area.
8. I have carefully considered the other points raised by the appellant but, given the harm that I have identified and the lack of evidence of sufficient weight to justify such an exception to the Development Plan, I conclude that the appeal should be dismissed.

Martyn P Heyes

INSPECTOR



17/501477 - Land at Pye Corner

Scale: 1:1250

Printed on: 11/10/2017 at 10:39 AM by EilyH



REPORT SUMMARY

REFERENCE NO - 17/501477/FULL		
APPLICATION PROPOSAL: Use of land for the siting of 1 No. mobile home, parking for 1No. touring caravan and erection of an amenity building for a member of the travelling community.		
ADDRESS: Land at Pye Corner, Ulcombe, Kent ME17 1ED		
RECOMMENDATION: Grant permanent permission subject to conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed change of use of the land, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000), the Final Draft Maidstone Local Plan (2011-2031) and the provisions of the NPPF and there are no overriding material planning considerations justifying a refusal of permission.		
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views of Ulcombe Parish Council who have requested that the application be determined by Committee.		
WARD Headcorn	PARISH/TOWN COUNCIL Ulcombe Parish Council	APPLICANT – Mrs Rhiannon Gilham AGENT – The Rural Planning Practice
DECISION DUE DATE (Extended) 16.10.2017.	PUBLICITY EXPIRY DATE 27/04/2017	OFFICER SITE VISIT DATE 15/08/2017

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site occupies an irregular shaped plot of flat grazing land, and is located in the countryside on the north side of Eastwood Road approximately 250m to the east of Ulcombe at its junction with Headcorn Road. The site is fully enclosed by mature, native species hedgerows interspersed with occasional trees.
- 1.2 A semi-detached pair of traditional two storey dwellinghouses fronting Eastwood Road occupy the south western corner of the site, and are screened from the site by the field hedgerow abutting their rear garden curtilages. A stable complex, comprising both converted traditional farm buildings and purpose built stabling, with adjoining bungalow, lie on the south side of Eastwood Road opposite the access to the site.
- 1.3 Ulcombe comprises a small rural village straddling Headcorn Road/The Street. It benefits from a Primary School but is too small to qualify as a service centre. A footpath runs from Ulcombe in a south easterly direction passing through the site close to its north eastern boundary before emerging on to Eastwood Road in the south east corner of the site.
- 1.4 The site is undeveloped save for two timber/corrugated shelter buildings and a metal container. The site falls within a SLA in the current Local Plan but this falls away in the emerging Plan.

2.0 PROPOSAL

- 2.1 The proposal has been amended, reducing the extent of the red-line application boundary.
- 2.2 Full planning permission is sought for a change of use of land within the amended red line boundary to use as a residential caravan site for a member of the travelling community to include the siting of 1 mobile home, parking for 1 touring caravan and erection of an amenity building.
- 2.3 Two of the three existing site buildings would be removed, while the remaining larger building would be retained for use as storage for maintenance equipment and animal feed. The proposed mobile and its associated facilities would be located towards the south east corner of the site, largely out of public view. Stock fencing would be provided parallel to the public footpath which would for practical purposes delineate the useable extent of the site.
- 2.4 A multi-level screen of indigenous native species trees some 70m in length would be planted to screen the caravans and associated areas from the view of members of the public utilising the footpath. A new 'bellmouth' access would be formed in lieu of the existing field gate arrangement, and lined with hedging. The remainder of the site would remain as grazing land.

3.0 PLANNING HISTORY

- 3.1 The site comprises previously undeveloped grazing land. There is no relevant planning, appeal or enforcement history.

4.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28,
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites 2015 (PPTS)
- Final Draft Maidstone Local Plan (2011-2031): SP17, DM15
- Neighbourhood Plan: N/A

5.0 LOCAL REPRESENTATIONS

- 5.1 Ulcombe Parish Council has raised objection and recommends refusal for the following reasons:
- The applicant is not nomadic, although of gypsy descent and lives in Maidstone, with her husband. The applicant family does not fit the definition of Gypsies and Travellers, contrary to (PPTS) 2015, which says applicants have to show they are of nomadic habit and that they have ceased to travel only temporarily.
 - There is consequently no "unmet or proven need" to consider. MBC now has a 5.6 year supply of traveller pitches and should apply existing policies to protect the countryside.

- The site is in open countryside and can be seen from the Greensand Ridge (a Landscape of Local value in the Draft Local Plan) and from the Greensand Way. The site is in the Low Weald Special Landscape Area and in a part of the countryside designated as Ulcombe Mixed Farmlands. It is also a Low Weald National Character Area, and conflicts with Policy ENV34. In the Low Weald particular attention will be given to the protection and conservation of the scenic and distinctive character of the area and priority will be given to the landscape over other planning considerations.
- The site is inappropriate for a mobile home and will overlook neighbours' gardens and cause loss of amenity. It can also be seen from the houses in Chestnut Close and the Headcorn Road. A 20 metre long mobile home is more like a bungalow. The application is contrary to saved policy ENV 28 which states that 'in the countryside, planning permission will not be given for development which harms the character and appearance of the area or the amenities of the surrounding occupiers'. It is also contrary to policy SP17 para 6 in the draft Local Plan 'The distinctive landscape character of the Greensand Ridge ... and Low Weald as defined on the policies map will be conserved, maintained and enhanced where appropriate as landscapes of local value.' Any development on this site will not enhance the landscape.
- The site is visible from the footpath KH321 which runs the length of the northern boundary which happens to be Ulcombe's historic burial path to its Grade 1 church. This application conflicts with the NPPF's protection of heritage assets as this site is visible from the main village and affects the setting of the historic burial path, which the application wants to fence off and make into a constricted urban style pathway in open countryside.
- 6 Because of the proximity of this site to the immediate neighbours and to the settled community near the centre of the village, the addition of another traveller site will aggravate the social cohesion in the village which is contrary to the intent of PPTS 2015 and in particular para 14 'when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community'. The school has already grown from 25% traveller children in 2013 to 75% traveller children in 2017 (the school's figure) and this has resulted in a loss of social cohesion between the settled and traveller communities because of this "domination". This is a serious consequence of previous decisions, and we do not want to make matters worse. Ulcombe already has the highest percentage of traveller sites in Maidstone Borough for a small village.
- The site does not fulfil the definition of "sustainability" in policy DM16 in the Draft Local Plan as Ulcombe has no shops, no health centre and no recreational facilities. There are only 4 buses a day to Maidstone (8 miles away) with the last one at 1.32pm, and no buses to Headcorn (over 3 miles away). Headcorn has the nearest local services including the railway station, doctors and dentists, chemist, library, and shops etc, all of which are not accessible from Ulcombe on foot or by public transport.
- There are also issues of ecology and environment given the nearby stream, ponds and reservoir and the effect on wildlife with a development on a greenfield site.

5.4 Eleven letters of objection have been received. The objector's comments can be summarised as follows:

- Inappropriate development which threatens the unique character of the village
- Can be seen from Green Sand Ridge Path which is in an AONB
- There are 3 traveller community encampments within 3 miles of Ulcombe, housing 10 families. Further development of rural land for this use is inappropriate.

- Access onto the lane is awkward for caravans and could be dangerous
- Continued enjoyment of the footpath could be jeopardised, it is a much used route for dog walking and conflict with site dogs is envisaged, use will be diverted to the road which does not have footways and would be dangerous
- The scale of the mobile home will not be perceived as 'temporary'.
- Will imperil the village by introducing anti-social behaviour and noise
- Not within the village envelope, will spoil the setting of the village and must remain as agricultural land
- The applicant lives in a permanent home, is not nomadic and does not qualify for Gypsy status.

6.0 CONSULTATIONS

6.1 KCC PROW : No objections.

6.2 KCC Highways: No objections subject to conditions in respect of the following (which pass the tests for conditions): Gates to open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway.

7.0 APPRAISAL

7.1 Policy Background

The site lies in open countryside and is therefore subject to Local Plan Policy ENV28 which states that 'Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers. Although the policy sets out permissible forms of development it excludes G&T development as this was covered under a separate policy which was subsequently not 'saved'. At this moment in time there are no saved Local Plan policies relating directly to G&T development

However the emerging Local Plan seeks to maintain the thrust of former G & T Policies through Policy DM15 and is closely approaching full weight, particularly as the Inspector's Final Report does not conflict with the GTAA or with draft G&T policy.

A key consideration in the determination of this application is Government Guidance set out in 'Planning Policy for Traveller Sites (PPTS) as amended in August 2015. The guidance places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision (as opposed to local authority provision) and acknowledgement that sites are more likely to be found in rural areas. This is an exception to the principle of restraint in the countryside.

It is accepted that the proposal represents development contrary to the provisions of Policy ENV28. This policy is due to be replaced upon adoption of the emerging Plan by Draft Policy SP17, which follows the broad thrust of Policy ENV28. Policy DM15 is specific to gypsy development, allowing for development subject to compliance with certain criteria, which includes sustainability, landscape character, the cumulative effect of development, highway safety, flooding and ecology. Given the advanced status of the emerging Plan, Policies SP17 and DM15 are approaching full weight.

Regard must be given to Policy ENV34 however Policy ENV34 is due to expire upon adoption of the emerging plan anticipated for this month. The emerging Plan does not designate the site or its surroundings in landscape terms and consequently affords no special protection other than that afforded through SP17, the implications of which are described above.

Issues of need are dealt with below, but in terms of broad principle, Local Plan Policies and Central Government Guidance both permit G&T sites to be located in the countryside as an exception to policies which otherwise seek to restrain development.

7.2 Need for Gypsy sites

Although the emerging local plan is well advanced, there are not yet any adopted Development Plan policies relating to site provision for Gypsies and Travellers. Local Planning Authorities are required to set their own Local Plan targets for pitch provision in their area. In order to address this, Salford University were commissioned to carry out a Gypsy and Traveller and Travelling Show-people Accommodation Assessment (GTAA) which was published in 2012 to cover the period October 2011 to March 2031.

The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016 - 105 pitches
April 2016 – March 2021 - 25 pitches
April 2021 – March 2026 - 27 pitches
April 2026 – March 2031 - 30 pitches
Total: Oct 2011 – March 2031 - 187 pitches

This, is the best current evidence of need, and forms the evidence base to the Local Plan, although it should be acknowledged that the GTAA preceded the August 2015 publication of the revised PPTS which redefines amongst other things, status qualifications, and as a result the accuracy (albeit not substantially) of the GTAA figures.

The target of 187 additional pitches is included in Policy SS1 of the emerging Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

The GTAA predates publication of the revised PPTS, which sought to redefine the definition of Gypsies and Travellers. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. The GTAA had already asked those surveyed whether they had ceased to travel. The only recognised omission was whether those who had ceased to travel intended to resume travelling. The Inspector concluded that a new survey to address this would be unlikely to result in anything but small changes to the needs figures. The Inspector concluded that the needs evidence is adequate.

7.3 Supply of Gypsy Sites

Under the terms and conditions of The Housing Act (2004), accommodation for Gypsies and Travellers is a specific form of housing, which Councils have a duty to provide. Draft Local Plan Policy DM16 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.

Between the base date 01.10.2011 of the GTAA and 21.08.2017, a net total of 110 permanent pitches were provided. This means that a further 77 permanent pitches are required by 2031 to meet the objectively assessed need identified in the GTAA. The level of provision to 21.08.2017 can be broken down as follows:

92 permanent non-personal pitches
18 permanent personal pitches

3 temporary non personal pitches
36 temporary personal pitches

The PPTS states that LPA's should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient to meet the 10 year period following Local Plan adoption (currently anticipated as late 2017). The Draft Plan allocates a number of sites sufficient to provide 41 additional pitches by 2031. Although this figure does not satisfy identified demand there will be potential uplift through the provision of windfall sites yet to come forward. Accordingly it is considered that the objectively assessed need (OAN) for 187 pitches can realistically be achieved.

The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. The Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

7.4 Gypsy status

Permission is sought on the basis that the applicant is from the Travelling community and intends to continue with this lifestyle. Rhiannon has submitted a Statutory Declaration setting out her Romani-Gypsy family history and heritage, evidence of cultural events attended and travelling for work associated with horses, fruit picking and Gypsy craft enterprise. It is accepted that she qualifies for Gypsy status in accordance with the provisions of the Governments PPTS.

7.5 Visual/Landscape Impact

The site is screened along Eastwood Road by a mature hedgerow with limited views available of the site interior. Although open to public view from the public footpath to the north east, substantial multi-tiered screening has been proposed which upon establishment and with the passage of time will provide effective screening of the development. While the site would be temporarily exposed to view from the public footpath pending establishment of the proposed screen planting, the development would not obstruct long range views of the surrounding countryside from footpath vantage points and would as a presumption only be experienced by a limited number of people.

Guidance in the PPTS states that Local Planning Authorities should very strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. Although the PPTS does not refer to landscape impact this is addressed in the NPPF, while Policy ENV28 of the adopted local plan and Policy SP17 of the DLP state that provided proposals do not harm the character and appearance of an area, small scale residential development necessary to meet a proven need for G&T accommodation will be permitted.

In addition Policy DM15 of the emerging Plan 'Gypsy, Traveller and Travelling Show-people accommodation', states that, permission will be granted if a site is well related to local services, would not result in significant harm to the landscape and rural character of the area due to visual impacts, including cumulative visual impact and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

The site is currently well screened from public vantage points and subject to further screening will become, with time, better assimilated into its surroundings. In this instance Policy ENV28, Policy SP17 of the emerging Local Plan, and the provisions of the NPPF would be satisfied.

7.6 Highways

KCC has provided a list of requirements relating to access provision. Those that pass the relevant tests for conditions will be applied.

7.7 Cumulative Impacts:

The site comprises an isolated G&T site in the countryside and would be of such scale and density so as not to result in any cumulative impact to the detriment of the existing resident community.

7.8 Ecology Impacts.

The land is semi-improved horse pasture, generally considered to be species poor. There is no evidence of protected species and subject to precautionary condition in respect of nesting birds, there is no reason to withhold permission on ecology grounds.

7.9 Sustainability

Although this is a rural site, it lies in close proximity to Ulcombe which benefits from a primary school and bus service. Although not in a highly sustainable location having regard to shopping opportunities and other such facilities, Gypsy sites are traditionally located in rural areas as that contributes to the lifestyle choice. In accordance with Policy DM15 this is not so serious as to warrant refusal.

7.10 Residential amenity

There are no adjoining Gypsy sites. The adjoining dwellinghouses occupied by the settled community are sufficiently distant and well screened and as such would not be compromised by noise and disturbance, or potential overlooking and any resulting loss of privacy. The site layout is generous and the living conditions of the proposed future residents would not be unacceptably compromised.

7.11 Flooding

Although a small watercourse is shown to lie alongside the western site boundary, the watercourse or subject site has not been indicated as being susceptible to flooding and lies wholly with Flood Zone 1.

8.0 CONCLUSION

8.1 Although this site will have a visual impact on the character and appearance of the rural area, policy allows that subject to strict control and in order to satisfy the Borough's responsibility to satisfactorily accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, Gypsy sites can be acceptable in the countryside. In this instance the development would be at a site where there is already a presence of development, would not be prominent from Eastwood Road and significant landscaping would in time screen/soften views from the public footpath.

8.2 A Grant of planning approval, would assist in meeting the Council's unmet need for viable Gypsy and Traveller accommodation in the Borough and would comply with the provisions of the Development Plan (Maidstone Borough-Wide Local Plan 2000), the emerging Local Plan and with National Planning Guidance. Material circumstances indicate that subject to imposition of conditions full permanent planning permission should be granted.

9.0 **RECOMMENDATION**

GRANT Full permanent permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be static caravans) shall be stationed on the site at any time.

Reason: To accord with the terms of the application and to safeguard the amenity, character and appearance of the area.

3. The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015

Reason: The site is in the countryside where the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

4. No external lighting shall be erected on the site at any time unless previously agreed in writing.

Reason: To safeguard the rural character and appearance of the countryside and to prevent light pollution.

5. No commercial activities shall take place on the land, including the outdoor storage of materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

6. Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: To prevent overdevelopment of the site and to safeguard the rural character and appearance of the countryside.

7. Details of a scheme of landscaping, using indigenous species which shall be in accordance with BS:5837(2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management plan shall be submitted for approval in writing by the Local Planning Authority, prior to the commencement of development. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and include the following:
- 70m belt of mixed native hedge, shrubs and tree planting as shown on Drawing No. 4803/03 - Site Plan (Block Layout) as Proposed 1:500

Reason: To safeguard the character and appearance of the countryside, and in the interests of biodiversity.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following commencement of development, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the character and appearance of the countryside, and in the interests of biodiversity.

- 9 Details of all boundary treatments and fencing to include the site entrance splays and gateway, shall be submitted to and approved by the Local Planning Authority and thereafter erected prior to occupation of the site. The boundary treatment shall reflect the rural nature of the site and allow for establishment of landscaping and shall thereafter be maintained for all time.

Reason: To safeguard the character and appearance of the countryside and the amenity of adjoining occupiers.

- 10 Details of all hard landscaping to include vehicular hard-standings, turning areas and the site access road shall be submitted to and approved by the Local Planning Authority prior to that stage of the development. All surfacings shall be permeable to enable surface water to percolate directly to the ground below and avoid overflow onto the public highway and shall be retained as such thereafter.

Reason: To minimise flooding of neighbouring land and the highway in the interests of sustainable drainage and to ensure a satisfactory standard of development.

- 11 The vehicle parking spaces and turning facilities shown on the approved plans shall be provided prior to first use of the site. The approved parking spaces and turning facilities shall thereafter be retained.

Reason: In order to secure a satisfactory form of development.

- 12 The site access shall unless otherwise agreed by the Local Planning Authority be constructed so as to:

- a) Ensure that any gates open away from the highway and are set back a minimum of 5.5 metres from the edge of the carriageway.

Reason: In order to ensure a satisfactory and safe means of access and egress.

13 The development hereby permitted shall be carried out in accordance with the following approved plans:

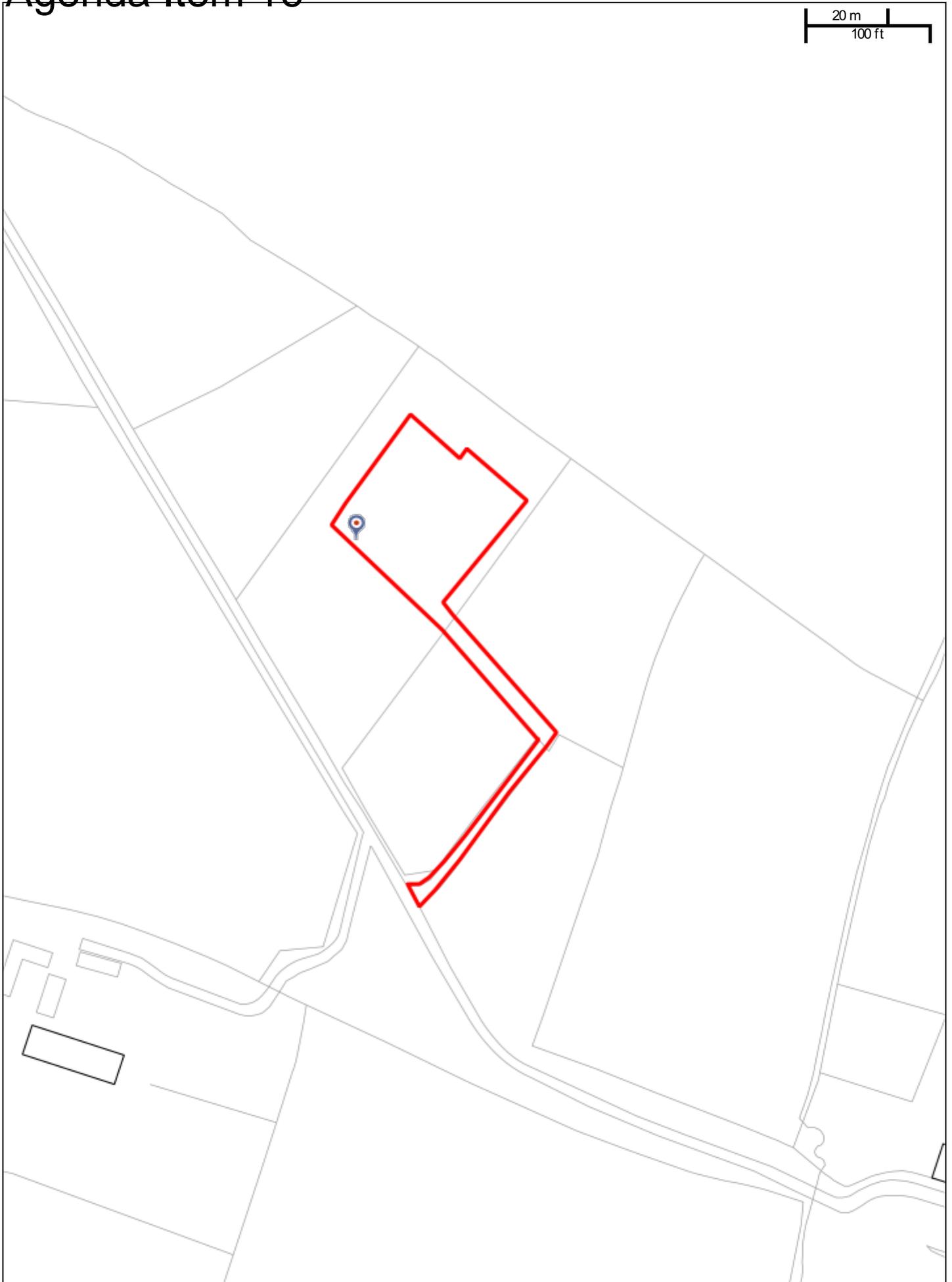
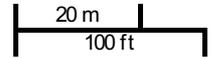
Drawing No. 4803/01RevB - OS Location Plan 1:2500

Drawing No. 4803/03RevC - Site Plan (Block Layout) as Proposed 1:500

Drawing No. 4803/04 - Amenity Building Plans and Elevations 1:50

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.

Agenda Item 16



REPORT SUMMARY

REFERENCE NO – 17/502714/FULL		
APPLICATION PROPOSAL: Change of use of land to create two additional plots adjacent to an existing Gypsy site, for the accommodation of two Gypsy Traveler families. Each plot to contain one static caravan, one touring caravan, a septic tank, parking for two vehicles and associated hardstanding.		
ADDRESS: Caravan 2, Hawthorn Farm, Pye Corner, Ulcombe, Kent ME17 1EF		
RECOMMENDATION: Grant permanent permission subject to conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed change of use of the land, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000), the emerging policies within the Final Draft Maidstone Local Plan and the provisions of the NPPF and there are no overriding material planning considerations justifying a refusal of permission.		
REASON FOR REFERRAL TO COMMITTEE: The recommendation is contrary to the views of Ulcombe Parish Council and the Parish Council has requested that the application be determined by Committee.		
WARD Headcorn	PARISH/TOWN COUNCIL Ulcombe Parish Council	APPLICANT – Mrs B Cash AGENT – Joseph Jones, BFSGC
DECISION DUE DATE (Extended) 31.10.2017.	PUBLICITY EXPIRY DATE 22/06/2017	OFFICER SITE VISIT DATE 14/07/2017

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is contained within a larger triangular shaped field of level, previously undeveloped, grazing land. The field boundaries are defined by mature native species hedgerows.
- 1.2 The site is located in the countryside approximately 1kilometre south of Ulcombe and 5km to the north of Headcorn. The field contains 'Hawthorn Farm' an existing Gypsy and Traveller site within a separate fenced enclosure, and is accessed via an unmade track, also designated in part as a public footpath, leading from an unclassified county road (UCR) to the north, to Kingsnoad Farm in the south. The UCR joins Eastwood Road at Pye Corner to the East.
- 1.3 Kingsnoad Farm and the adjoining Kingsnoad Oast lie approximately 150m to the east of the site access. Roydon Farm and other G&T sites lie on the opposite (western) side of the unmade track. Vine Cottage lies approximately 400m to the north of the site access. Pye Corner, a hamlet of some 15 or so dwellinghouses lies a further 200m to the east.
- 1.4 The land is designated a Special Landscape Area (SLA) in accordance with Policy ENV34 of the Maidstone Borough Wide Local Plan 2000. In accordance with the emerging Maidstone Borough Local Plan 2016, the SLA has been reduced in size and re-designated as a Landscape of Local Importance (LLI). There are no specific policies related to LLI's. There are no national landscape designations.

1.5 The land has been allocated as a Gypsy and Traveller site for a total of 5 pitches in accordance with Policy GT1(15) of the emerging Maidstone Borough Local Plan (subject to certain landscaping requirements). This allocation includes the existing 2 authorised pitches at Hawthorn Farm.

2.0 PROPOSAL

2.1 This is a speculative application seeking full planning permission for a change of use of land to use as a residential caravan site for 2 Gypsy families each with 2 caravans of which no more than one would be a static mobile home, a septic tank, parking for two vehicles and associated hard-standing.

2.2 The pitches would be located to the north-west of the existing Hawthorn Farm G&T site and within the larger field enclosure. This would be outside but adjoining the site allocation area. Access would be via the existing site access which would be shared with the existing site occupant.

3.0 PLANNING HISTORY

3.1 14/504606/FULL for a similar identical proposal (but having separate access) was refused on 2016 for the following Reason:

'By virtue of the lack of sufficient information submitted, it is not possible to adequately assess the impact that the proposal would have upon protected species and their habitats within the application site. The application thereby fails to comply with central government planning policy as set out in section 11 of the National Planning Policy Framework 2012 and Circular 06/2005'.

3.3 MA/09/0208 Change of use to Gypsy caravan site to include 2 mobile homes, 2 touring caravans, 2 utility blocks and 2 stables and tack-room – Approved (The original consent for Hawthorn Farm).

4.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Final Draft Maidstone Local Plan (2011-2031): GT1(15), SP17, DM15
- Planning Policy for Traveller Sites 2015 (PPTS)
- Neighbourhood Plan: N/A

5.0 LOCAL REPRESENTATIONS

5.1 Ulcombe Parish Council has raised objection on the grounds that the application is contrary to MBC countryside policies, NPPF guidance and PPTS 2015. Refusal is recommended for the following reasons:

- As MBC has a 5.6 year supply of traveller pitches there is now no need to expand this unsustainable and visually harmful site.
- The applicant is not nomadic, although of traveller descent, and has been resident in Hawthorn Farm for over 12 years and therefore does not fit the definition of "Gypsies and Travellers", contrary to the Planning Policy for Traveller Sites (PPTS) 2015.
- There is no regulated water and electricity supply.

- The effect of the proposal on protected species - The Ecology Survey is seriously at fault because there was no survey in late spring and summer.
- The effect of the proposal on the character and appearance of the countryside.
- The site is in open countryside and in the Low Weald Special Landscape Area and in a part of the countryside designated as Ulcombe Mixed Farmlands. It is also a Low Weald National Character Area, and sites like this need to be protected from harmful visual intrusion.
- The application conflicts with saved policy ENV34, which states that in the Low Weald particular attention will be given to the protection and conservation of the character of the area and priority will be given to the landscape over other planning considerations.
- The immediate neighbours at Kingsnoad overlook this site.
- Two extra mobile homes will increase noise, disturbance and a further loss of privacy and amenity for neighbours.
- The lane is not designed to take the current volume of traffic. There are already 15 mobile homes, 12 permitted tourers and 2 unauthorised tourers along this footpath, and it is already difficult to pass oncoming vehicles on this half mile stretch of track. The large number of mobile homes along this track dominate the nearest settled community of 3 houses at Kingsnoad.
- The application is contrary to saved policy ENV28 'planning permission will not be given for development which harms the character and appearance of the area or the amenities of the surrounding occupiers'.
- Contrary to the application statement, the site is visible from the public footpath which runs along the length of the western boundary.
- The addition of another traveller site will aggravate the social cohesion in the village.
- The school has grown from 25% traveller children in 2013 to 85% traveller children in 2017 (the school's figure) and this has resulted in a loss of social cohesion between the settled and traveller communities, contrary to the intent of PPTS2015
- Ulcombe already has the highest percentage of traveller sites in Maidstone Borough for a small village. There are now 94 traveller pitches either in, or within a mile of, the Ulcombe Parish boundary. We hope this fact will persuade MBC to see the cumulative impact of what may on the surface appear to be only modest individual traveller applications.
- The site does not fulfil the definition of "sustainability" in policy DM16 in the Draft Local Plan. Ulcombe has no shops, no health centre and no recreational facilities. There are only 4 buses a day to Maidstone (8 miles away) with the last one at 1.32pm from the Ulcombe bus stop 1.5 miles away from this site. There are no buses to Headcorn (over 3 miles away). Headcorn has the nearest local services including the railway station, doctors and dentists, chemist, library, and shops etc, all of which are not accessible from Ulcombe on foot or by public transport.

5.4 One letter of objection has been received from a member of the public. The objector's comments can be summarised as follows:

- Already overlooked by existing site caravans during winter and without full screening and fencing between the site and our land this will be exacerbated.
- The shared track accessing the site is in a terrible state of repair and increased numbers on the site at Hawthorn Farm will aggravate the problem.
- The highway between Pye Corner and the Ulcombe - Headcorn road has deteriorated significantly in recent years due to increased useage.
- Already high number of refuse bins around collection days giving rise to health and rodent concerns and making access to and from the track more problematic.
- Further hard standing, fencing, buildings and caravans of no aesthetic merit will cause further erosion of what has been an attractive rural environment.

- We have had problems with dogs from the site chasing and disturbing our livestock and believe increased numbers on this site might lead to same.
- Concern that noise pollution would increase.

6.0 CONSULTATIONS

6.1 KCC Ecology

Due to the site being intensively managed KCC are satisfied that the submitted report provides a good understanding of the ecological interest of the site. No additional surveys are required but if planning permission is granted there is the opportunity to enhance the site for biodiversity and this can be secured by condition

7.0 APPRAISAL

7.1 Policy Background

In accordance with Policy ENV34 of the Local Plan, the site and surroundings are designated as a Special Landscape Area (SLA) where there is a presumption that landscape considerations take preference over other planning issues. The emerging Local Plan re-classifies the land as Landscape of Local Value (LLV), although this no longer has policy significance. As the emerging Local Plan is nearing formal adoption, Policy ENV34 no longer carries the weight that was historically applied to it.

As the site lies in open countryside it is also subject to Local Plan Policy ENV28 which states that 'Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers. Although the policy sets out permissible forms of development it excludes G&T development as this was covered under a separate policy which was subsequently not 'saved'. At this moment in time there are no saved Local Plan policies relating directly to G&T development

However the emerging Local Plan seeks to maintain the thrust of former G & T Policies through Policy DM15. This is approaching full weight, particularly as the Inspector's Final Report does not conflict with the GTAA or with draft G&T policy. The site immediately adjacent is allocated for G&T development and being outside of this allocation the site should be treated as a 'windfall' site to be assessed under policy DM15.

It is accepted that the proposal represents development contrary to the provisions of Policy ENV28. This policy is due to be replaced upon adoption of the emerging Plan by Draft Policy SP17, which follows the broad thrust of Policy ENV28. Policy DM15 is specific to gypsy development, allowing for development subject to compliance with certain criteria, which includes sustainability, landscape character, the cumulative effect of development, highway safety, flooding and ecology. Given the very advanced status of the emerging Plan, Policies SP17 and DM15 are approaching full weight.

Issues of need are dealt with below, but in terms of broad principle Local Plan Policies and Central Government Guidance both permit G&T sites to be located in the countryside as an exception to policies which otherwise seek to restrain development.

7.2 Need for Gypsy sites

Although the emerging local plan is well advanced, there are not yet any adopted Development Plan policies relating to site provision for Gypsies and Travellers. Local Planning Authorities are required to set their own Local Plan targets for pitch provision in their area. In order to address this, Salford University were commissioned to carry out a Gypsy and Traveller and Travelling Show-people Accommodation Assessment (GTAA) which was published in 2012 to cover the period October 2011 to March 2031.

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7.3 Supply of Gypsy Sites

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3 temporary non personal pitches
36 temporary personal pitches

The PPTS states that LPA's should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient to meet the 10 year period following Local Plan adoption (currently anticipated as late 2017). The Draft Plan allocates a number of sites sufficient to provide 41 additional pitches by 2031. Although this figure does not satisfy

identified demand there will be potential uplift through the provision of windfall sites yet to come forward. Accordingly it is considered that the objectively assessed need (OAN) for 187 pitches can realistically be achieved.

The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. The Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

7.4 Gypsy status

Permission is sought on the basis that the proposed two pitches would contribute towards the supply of G&T sites in the borough. This is therefore a speculative application and is not intended for the benefit of any particular Gypsy and Traveller family. It is consequently not necessary to demonstrate G&T status at this point as qualification for site residency will be subject to G&T status secured through a planning condition.

7.5 Visual/Landscape Impact

The larger triangular shaped field is bordered by mature hedgerows which provide effective screening except during the winter months when foliage dies back and it can be glimpsed from the public footpath, particularly at the site entrance. The opportunity exists for site visibility to be addressed in the long term by provision of a robust screen of fast growing native species landscape planting, secured through planning condition. Such landscaping would supplement existing in line with policy DM15. Although there would be an impact on visual amenity in the short term, such impact would be localised, would be seen in the context of neighbouring G&T development and would be insufficient to warrant refusal of planning permission.

Policies SP17 and Dm15 of the Final Draft Local Plan are particularly relevant in this context. Policy SP17 states that small scale G&T development that meets a proven need will be permitted providing proposals do not harm the character and appearance of the area. Policy DM15 states that planning permission for G&T development will be granted if the proposal would not result in inappropriate harm to the landscape or rural character of the area. The site does not fall within a designated landscape and has been located so as to have minimal impact on its surroundings. It is considered that the proposal complies with the criteria set out in Policies SP17 and DM15.

The Parish Council has drawn attention to the Low Weald Special Landscape Area setting and the need to protect such designations from harmful visual intrusion. The site is reasonably well screened from public vantage points within the adjoining PROW. Providing existing natural screening is reinforced in accordance with the provisions of DM15 this will ensure that the development will become, with time, better assimilated into its surroundings and reduce perceived harm to the character of the surrounding countryside.

7.6 Highways

There are no highway issues as an existing access is to be used. Although the track running from the unclassified county road also benefits from footpath status, the track Policies is also subject to vehicular rights of access.

7.7 Cumulative Impacts:

The site lies in close proximity to several existing G&T sites. In accordance with Policy GT1 (15) Hawthorn Farm has been allocated a total of 5 pitches, to include the 2 existing pitches. A further allocation for a single additional pitch at Neverend Lodge, Pye Corner, has been made in accordance with Policy GT1 (16) on land to the west of the site accessed from Eastwood Road. The Parish Council has expressed concern that although such applications viewed in isolation may seem reasonable, the cumulative impact of G&T development is in serious danger of undermining social cohesion within the resident community, and they have provided figures demonstrating the extent to which local schools now predominately cater for the G&T community.

The NPPF and PPTS 2015 provide clear guidance in respect of cumulative impact. The Government's aim is to reduce tension between the settled and travelling communities and in order to achieve this PPTS 2015 requires that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of development does not dominate the nearest settled community. In this instance, the Council's Planning Policy team considered the implications of cumulative impact during the G&T site allocation process and in so doing determined that the site was suitable for 5 pitches. Were this application to be approved, there would be a potential increase in pitches at Hawthorn Farm to 7 pitches. The 7 pitches would be contained within a field enclosure of generous dimensions, delineated by mature hedgerows, which has been identified as land suitable for G&T site expansion. In this instance, the proposal would not result in an overtly cramped form of development or one that would unacceptably dominate the existing residential community.

7.8 Ecology Impacts.

A previous application was refused due to the lack of ecology information submitted. This application is now supported by a Phase 1 Ecology Survey. The survey emphasises that within the proposed footprint of development, the land has no potential for habitat and that there is no evidence of protected species. The Ecology and Biodiversity Officer agrees with this conclusion and has taken the view that a condition to enhance existing site biodiversity would be acceptable in this case. As such there would be no conflict with Policy DM15.

7.9 Sustainability

Although the site would be approximately 5km from a Local Service Centre, the location has been considered by the Council in the context of their G&T site needs assessment and allocated in the emerging Local Plan for G&T development. Although the occupants of the site would be largely reliant on private motor vehicles to access local services and facilities, this is not untypical of Gypsy and Traveller lifestyle choices which results in a preference for sites in rural locations. Although not highly sustainable in respect of location, the site is not so far removed from basic services and public transport opportunities as to justify refusal on this basis

7.10 Residential amenity

The two proposed pitches would be of sufficient size to ensure that, spatially, living conditions would be acceptable for future occupiers. Although concern as to loss of privacy and potential for noise pollution has been expressed by the neighbour to the south east, the development would be located to the other side of an existing G&T site and would be reasonably distant from the affected habitation. In addition additional

landscaping would be introduced, secured by condition, which with the passage of time would provide enhanced screening. Consequently residential amenity is considered not to be an issue.

7.11 Flooding/Drainage

The site lies within Flood Zone 1 and as a consequence flooding is not an issue. A planning condition will however be imposed in order to secure permeability of site hardstanding and assist in surface water drainage. Details submitted with the application in respect of sanitation are considered acceptable. The application would comply with Policy DM 15 in all such respects.

8.0 CONCLUSION

8.1 Although this site will have some visual impact on the character and appearance of the rural area, policy allows that subject to strict control and in order to satisfy the Borough's responsibility to satisfactorily accommodate the Gypsy and Traveller community in development commensurate with their traditional lifestyle, Gypsy sites can be acceptable in the countryside. In this instance the field enclosure has been allocated in part for Gypsy and Traveller development. The development would be largely screened to long distance views while additional landscape planting would mitigate views from the PROW and from neighbouring residential curtilages in accordance with policy DM15. As a result the impact of development upon the character of the countryside and the amenity of the settled community would be acceptable.

8.2 A Grant of planning permission would assist in meeting the Council's unmet need for Gypsy and Traveller accommodation in the Borough and would comply with the Development Plan (Maidstone Borough-Wide Local Plan 2000), with emerging policies within the Draft Maidstone Local Plan and with National Planning Guidance. Material circumstances indicate that subject to imposition of conditions full permanent (non-personal) planning permission should be granted.

9.0 RECOMMENDATION

GRANT Full permanent permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans) shall be stationed on the site at any time.

Reason: To accord with the terms of the application and to safeguard the amenity, character and appearance of the area.

3. The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning

Policy for Traveller Sites 2015; permitted and an exception has been made to provide accommodation solely for Gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

Reason: The site is in the countryside where the stationing and occupation of caravans/mobile homes is not normally permitted other than by members of the Gypsy and Travelling community.

4. No external lighting shall be erected on the site at any time unless previously agreed in writing.

Reason: To safeguard the rural character and appearance of this part of the Area of Outstanding Natural Beauty and to prevent light pollution.

5. No commercial activities shall take place on the land, including the outdoor storage of materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of this part of the Area of Outstanding Natural Beauty.

6. Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the local planning authority.

Reason: To prevent overdevelopment of the site and to safeguard the rural character and appearance of this part of the Area of Outstanding Natural Beauty.

7. The development shall not commence until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall include a planting specification, a programme of implementation and a [5] year management plan. The landscape scheme shall specifically address the need to provide:

- Retention and landscape reinforcement of the existing hedge along the south west and north east boundaries of the field enclosure with native hedge and tree species.
- A new double staggered mixed native hedge with trees on the outside of all boundaries of the site and outside the edges of the site access track.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following commencement of development, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To safeguard the character and appearance of the countryside.

9. Details of all boundary treatments shall be submitted to and approved by the Local Planning Authority prior to occupation of the site. The boundary treatment shall allow for establishment of landscaping and shall thereafter be maintained for all time.

Reason: To safeguard the character and appearance of the countryside.

10. All hard-standings shall be permeable to enable surface water to percolate directly to the ground below and shall be retained as such thereafter.

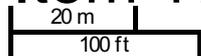
Reason: To minimise flooding of neighbouring land and the highway and in the interests of sustainable drainage.

11. Prior to occupation of the site hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. The approved details will be implemented and thereafter retained.

Reason: In the interests of biodiversity.

12. The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Number LP-04 'OS Location Plan' 1:2500
Drawing Number BP-04 'Site Layout Plan' 1:500
Drawing Number TS-0102017 'Existing Trees and Hedges with proposed landscape planting' 1:200

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.



17/503285 - Crispin Cottage

Scale: 1:1250

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REPORT SUMMARY

REFERENCE NO - 17/503285/FULL		
APPLICATION PROPOSAL Erection of four dwellings with parking provision and highways access.		
ADDRESS Crispin Cottage 163 Heath Road Coxheath Maidstone Kent ME17 4PA		
RECOMMENDATION - APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> - Notwithstanding the site lies on land identified as countryside, given the built up character of the locality and that no harm was identified to countryside interests in connection with refused housing proposal abutting the site to the north no objection is identified to the proposal in principle. - No material harm is identified to the character, appearance or layout of the locality. - No material harm is identified to the outlook or amenity or dwellings overlooking or abutting the site; - Is acceptable in design and layout terms - Is acceptable in its highways and wildlife impacts. - Will make a valuable windfall contribution to the provision of smaller housing units within the Borough. 		
REASON FOR REFERRAL TO COMMITTEE – PART OF SITE OWNED BY COUNCILLOR		
WARD Coxheath And Hunton	PARISH/TOWN COUNCIL Coxheath	APPLICANT Esquire Developments AGENT
DECISION DUE DATE 22/08/17	PUBLICITY EXPIRY DATE 21/7/17	OFFICER SITE VISIT DATE 13/7/17

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The application site comprises part of the rear amenity areas of two houses (one detached one semi detached fronting Heath Road. The adopted local plan shows the application site immediately abutting though lying outside the settlement boundary of Coxheath in an area identified as part of the southern anti coalescence belt. The emerging local plan (EML) allocated land to the east and north of the application site for housing which is in the process of being implemented.
- 1.2 The application site and a larger area abutting it to the north is therefore enclosed by housing. Notwithstanding being wholly severed from open countryside the application site is still identified as falling within the countryside in the emerging local plan.

2.0 RELEVANT PLANNING HISTORY

- 2.1 There is no relevant planning history directly affecting the application site. However adjoining land abutting the application site to the north has been the subject of the following applications.

16/507895/OUT: Outline application (with all matters reserved) for erection of 14 dwellings on land fronting Aspian Drive with associated access, parking and landscaping – REFUSED – 05/05/17 for the following reasons:

- Layout dominated by hardsurfacing and parking along with loss or future pressure on boundary trees and landscaping and the limited scope for replacement or enhancement planting would result in a cramped and overdeveloped site uncharacteristic of the surrounding area.
- Harm to the amenities of future occupiers of dwellings proposed to the north of the site along with insufficient residential amenity to the future occupiers of the proposed development in relation to overlooking, loss of privacy and visual intrusion.
- No legal agreement in place to secure affordable housing or community provision.

2.2 An appeal has been lodged against this refusal.

2.3 Under ref: 17/504314 an outline application (with all matters reserved) for erection of 10 dwellings (fronting Aspian Drive) comprising two detached and four pairs of semi detached homes of two storey design with associated access, parking and landscaping. (Resubmission of 16/507895/OUT) has been submitted. This application is undetermined.

3.0 PROPOSAL

3.1 The proposal seeks full planning permission to develop the application site for 4 no: 2 bedroom dwellings in a semi detached format in an east to west site alignment. Each dwelling will have 2 parking spaces. Site access will be gained between 161 and 163 Heath Road with the layout designed for a possible further northern extension.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Adopted Local Plan: ENV28, ENV32
Emerging Local Plan: DM1, DM34, SP17

5.0 LOCAL REPRESENTATIONS

5.1 9 neighbouring properties notified – 3 objections received which are summarised below:

- The number of new houses built in Coxheath has already exceeded that envisaged in the parish council's neighbourhood plan.
- Even more development will place further strain on local services
- No planning site notice has been posted in Aspian Drive even though the occupants of this development about the application site.
- Involves building on land outside of the current settlement boundary and not in an area identified for development in the emerging local plan.
- Layout designed to allow for further development to the north.
- Application previously refused on land below 161 Heath Road and this development's road layout would provide a link up and access.
- Will adversely affect the free flow of traffic and highway safety along Heath Road.
- Will have an impact on wildlife abutting the site

- Adversely outlook and amenity of houses abutting the site in Apsian Drive.
- Coxheath does not need more housing and certainly not in this location.

6.0 CONSULTATIONS

- 6.1 **Coxheath parish Council:** No objection - pleased to see the proposal is to build smaller two-bedroom houses, which should present an opportunity for first time buyers. Also happy to see that access will be via Heath Road rather than Apsian Drive, thereby minimising disruption to nearby residents during the construction stage.
- 6.2 **Kent Highways:** No objection subject to conditions to secure on site parking and turning in the construction phase, wheel washing and on site parking and turning on occupation,
- 6.3 **KCC Archaeology:** Site lies in an area of potential Iron Age activity. Undated remains were found in the adjacent site but there may be similar remains extending into this smaller site too. As such I recommend the following condition is placed on any forthcoming consent: Raise no objection subject to condition to secure an archaeological filed evaluation.

7.0 APPRAISAL

- 7.1 The key issues are considered to be those of principle, impact on the character and layout of the area, amenity, highway and wildlife.

Principle:

- 7.2 The adopted local plan identifies the site as falling within open countryside and southern anti coalescence belt and is therefore subject to policies ENV28 and ENV34 of the adopted local plan. The emerging local plan (EML) continues to identify the site as falling within the countryside. Notwithstanding the position that significant weight must now be given to the EML when determining planning applications, it is considered the following represents material considerations that need to be taken into account in assessing this proposal.
- 7.3 The application refused under ref: 16/507895/OUT for the erection of 14 dwellings also fell within the countryside though the reasons for refusing this did not include harm to the countryside. It was made clear that the developed character of the immediate area resulted in any contribution this site made to the rural character of the area being compromised. Given these circumstances and that the application site also falls within this area it is considered on the grounds of consistency that no objection can now be raised to development of this site on harm to the countryside.
- 7.4 The above comment acknowledges that the Local Inspector confirms the Council can demonstrate a 5 year supply of housing land. The positive contribution of windfall developments in meeting the demand for new housing within the Borough is also a factor in favour of the development.
- 7.5 Consideration therefore turns on matters of detail.

Impact on the character and layout of the area:

- 7.6 The application site is currently used as garden land serving 161 and 163 Heath Road. The proposal represents backland development being set behind the houses

fronting Heath Road. Backland or tandem development is not normally permitted unless site circumstances are such that no harm can be identified to the layout or character of the wider area or harm to the outlook or amenity of residents overlooking or abutting the site.

- 7.7 In this case, apart from the access, the application site is inward looking and well enclosed. The proposed houses will therefore have little impact on the street scene. It therefore remains to assess whether the layout of the wider area will be materially affected.
- 7.8 The proposed houses are modest two bedroom units representing an intense development format compared to the design and layout of the existing houses fronting Heath Road. However taking into account they will not be visible in the wider area and having regard to development that has occurred on adjoining land, arguments based solely on cramped and overcrowded development out of character with the immediate area would be hard to defend.
- 7.9 As such no harm is identified to the character or layout of the area. Concerns have been raised that the proposal shows clear intent to extend development further north into the adjoining site. Given there is no objection in principle to the development of this land it is prudent in planning terms to ensure development of the application site does not sterilise the development potential of this land.
- 7.10 As a further consideration, should either the refused application (and currently the subject of an appeal) and the undetermined application be permitted these could be implemented independent of the proposal under consideration and vice versa.

Amenity, layout and design considerations:

- 7.11 Though the proposal represents backland development the occupants of 161 and 163 Heath Road are both beneficiaries. As such they have already determined they find any visual impact and noise and disturbance associated with the development acceptable. Despite this, it still falls to assess whether the proposal meets the Council's normal layout standards to ensure development does not fall beneath an acceptable minimum. In this context the flank walls of both proposed blocks are in excess of 18 metres from the rear walls of 161 and 163 Heath Road. Subject therefore to conditions precluding the installation of 1st floor windows in these elevations on privacy grounds, any impact on the outlook and amenity of 161/163 Heath Road falls within acceptable limits. Regarding noise and disturbance from use of the proposed access, this would normally be an issue. However it is proposed to erect 1.8 metre high closeboarded fencing abutting the access road which should provide sufficient sound attenuation and screening for the occupants of 161/163 Heath Road.
- 7.12 Turning to the amenity of the residents of dwellings abutting the site who will not be beneficiaries of the development, 165 Heath Road is set at an oblique angle over 18 metres from the nearest dwelling. There is already hedging on the common boundary with additional hedging/tree planting proposed within the application site which can be secured by condition. Though some overlooking may occur from 1st floor windows into the rear garden of 165 Heath Road the affected area is over 12 metres away from the rear of the house. As such the impact on the outlook and amenity of 165 Heath Road falls within acceptable limits.
- 7.13 Regarding those residents abutting the western site boundary in Aspian Way, the property most affected is 42 Aspian Way. Other residents in Aspian Way are on the

opposite side of an access road giving a separation distance of over 20 metres across a public zone along which there is boundary planting. In relation to 42 Aspian Way, the nearest proposed dwelling is set over 6 metres in from the boundary and over 14 metres away from the rear of 42 Aspian Way at an oblique angle. Given the orientation, proposed separation distances and existing and proposed boundary planting, no material harm to amenity is identified.

- 7.14 The dwellings have been designed in a cottage style with tile hanging at 1st floor, casement windows, cantilevered porch over both front doors with a profiled brick plinth to all dwellings. This design approach is considered an acceptable design response to this small scale development.
- 7.15 In connection with the layout of the proposed development, this needs to be assessed on the basis it can secure an acceptable level of amenity for future residents. The 'face to face' distance between proposed dwellings is 8 metres and though tight is considered acceptable. Amenity spaces of approximately 5x6 metres are to be provided for each dwelling. Though small they are of usable size and proportions and also acceptable as a consequence. The amenity areas remaining with the existing dwellings are acceptable.
- 7.16 In conclusion the proposal is acceptable in design terms while no material harm is identified to the outlook or amenity of residents overlooking or abutting the site while securing an acceptable residential environment for future residents. The proposal is therefore considered to comply with policy DM1 of the EML.

Highways

- 7.17 The proposed development and both 161 and 163 Heath Road will all use a single central access. This access has good sight lines in both directions onto Heath Road. Given the nominal additional traffic likely to be generated by these 4 small dwellings the impact on highway safety and the free flow of traffic is likely to be minimal and this view is endorsed by Kent Highways. Proposed parking provision at two tandem spaces per dwelling is also acceptable.

Wildlife considerations:

- 7.18 The application site currently comprises well tended garden areas. As such there is little expectation the site will be a habitat for protected species and no wildlife survey has been submitted as a consequence. The NPPF seeks to secure wildlife enhancements as part of any development however the size of the site and nature of the layout provides limited opportunities to secure this. However the proposed boundary planting subject to it being native species along with the provision of bird/bat boxes is considered to be proportionate in responding to the needs of wildlife.
- 7.19 Concerns regarding the effect on wildlife on adjoining sites are noted. However the enclosed, inward looking and self contained nature of the proposed development makes it difficult to see any conflict could occur.

Other matters:

- 7.20 Renewable or low-carbon sources of energy within new development is considered intrinsic to high design standards and sustainable development in accordance with the provisions of the NPPF and policy DM1 of the EML. A condition should therefore be appended to secure this as part of the proposal

- 7.21 There is also a requirement that surface water drainage be dealt with via a SUDS in order to attenuate water run off on sustainability and flood prevention grounds and is a matter that can also be dealt with by condition.
- 7.22 Regarding limits on additional housing in Coxheath, the proposal represents an acceptable small scale windfall development which for the reasons amplified above will not result in any material harm to the locality and which applies equally to the impact on local services.
- 7.23 Though the proposal technically represents a departure from the development plan for the reasons set out above and that this small area can no longer be considered as countryside in planning terms there is considered to be no justification for advertising it as a departure.

8.0 CONCLUSION

- 8.1 The key conclusions are considered to be as follows:
- Notwithstanding the site lies on land identified as countryside, given the built up character of the locality and that no harm was identified to countryside interests in connection with refused housing proposal abutting the site to the north no objection is identified to the proposal in principle.
 - No material harm is identified to the character, appearance or layout of the locality.
 - No material harm is identified to the outlook or amenity or dwellings overlooking or abutting the site;
 - Is acceptable in design and layout terms
 - Is acceptable in its highways and wildlife impacts.
 - Will make a valuable windfall contribution to the provision of smaller housing units within the Borough.
- 8.2 In the circumstances it is considered the balance of issues fall in favour of the proposal.

9.0 RECOMMENDATION – GRANT Subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carryout in the external materials specified in paragraph 4.6 of the planning statement by Consilium Town Planning Services dated June 22017

Reason: In the interests of amenity.

3. The development hereby approved shall not be occupied until the access, parking and turning areas shown on drawing nos: 023-11 and 500 both rev A have first been provided. The approved access, parking and turning areas shall be retained at all times thereafter with no impediment to their intended use.

Reason: In the interests of the free flow of traffic and highway safety.

4. Prior to any part of the development hereby approved reaching damp proof course details of a decentralised and renewable or low-carbon sources of energy and how they will be incorporated into the development shall be submitted for prior approval in writing by the Local Planning Authority. The approved details will be in place before first occupation of any part the development hereby approved and maintained as such at all times thereafter.

Reason: To secure an energy efficient and sustainable form of development to accord with the provision of the NPPF.

5. Prior to any part of the development hereby approved reaching damp proof course a scheme for the disposal surface water (which shall in the form of a SUDS scheme) shall be submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure satisfactory drainage in the interests of flood prevention.

6. Prior to the development commencing, on site provision shall be made (a) for the parking loading/unloading and turning of all construction and site personnel vehicles and (b) wheel washing facilities. These facilities shall be retained throughout the construction phase of the development hereby permitted.

Reason: In the interests of highway safety and the free flow of traffic.

7. No surface water shall discharge onto the public highway.

Reason: In the interests of highway safety and the free flow of traffic.

8. Prior to the commencement of development hereby approved the applicant, or their agents or successors in title, will secure and implement the following :

(a) an archaeological field evaluation in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and;

(b) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

9. Native species hedging, the mix of which shall be agreed in writing before any part of the development reaches eaves level, sited as shown on drawing no: 023-11 rev A shall be planted in the first available planting season following first occupation of any of the dwellings. Any planting becoming dead diseased or dying within 5 years of planting shall be replaced by specimens of the same size, and species in the same location.

Reasons: In the interests of visual amenity.

10. Following first occupation of any of the houses hereby permitted the size, design and siting of two house sparrow boxes and two open fronted bird boxes shall be submitted

for prior approval in writing by the Local Planning Authority. The boxes shall be installed within 3 months of approval and retained as such at all times thereafter.

Reason: To ensure that adequate provision is made for wildlife in accordance with the provisions of the NPPF.

11. Before first occupation of the development hereby approved fencing as specified in paragraph 4.7 of the planning statement by Consilium Town Planning Services dated June 2017 shall be carried out and retained at all times thereafter.

Reason: In the interests of amenity.

-
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) (a) apart from those shown on the approved plans no windows or any other form of opening shall be installed above ground floor level on the north and south facing elevations of the houses hereby permitted or (b) enlargements to any of the dwellings shall be carried out without first obtaining the prior approval in writing of the Local Planning Authority.
-

Reason: To maintain privacy and prevent overdevelopment of the site in the interests of amenity.

-
13. The development hereby permitted shall be carried out in accordance with the following drawings nos: 023-10 revA, 11 revA, 100 rev A, 200 rev A, 500 rev A, 501 rev A, 502 rev A and 1000 rev A.
-

Reason: In the interests of amenity.

INFORMATIVES:

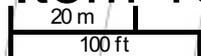
1. Should works be required in the highway a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.
2. It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Planning Committee Report

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.



17/503319 - 8 Shirley Way

Scale: 1:1250

Printed on: 11/10/2017 at 11:30 AM by ElyH

REPORT SUMMARY

REFERENCE NO - 17/503319/FULL			
APPLICATION PROPOSAL - Proposed 2 storey side and rear extension with single storey side element, enclosed front porch and roof extension. Minor internal changes.			
ADDRESS - 8 Shirley Way, Bearsted, Kent, ME15 8PP			
RECOMMENDATION – APPROVE			
SUMMARY OF REASONS FOR RECOMMENDATION – The proposals are considered to comply with the policies of the Development Plan and there are no overriding material considerations to indicate a refusal of planning consent.			
REASON FOR REFERRAL TO COMMITTEE – Councillor Springett wishes to see application refused and reported to Planning Committee for the reasons outlined in the report.			
WARD Bearsted	PARISH/TOWN COUNCIL Bearsted	APPLICANT - Mr And Mrs Batt AGENT - Kent Design Studio Limited	
DECISION DUE DATE 28/08/17	PUBLICITY EXPIRY DATE 01/08/17	OFFICER SITE VISIT DATE 11/07/17	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
17/501918/FULL	Erection of single storey front porch extension and part single/part two storey side and rear extensions	WITHDRAWN	30/05/17

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a residential plot currently occupied by a 1940s two-storey semi-detached dwelling with integral garage, hardstanding to the front and a linear rear garden. Its elevation is a mixture of brick and pebble dash, and plain tiles with a hipped roof. The property is set back some 10m from Shirley Way and is within the urban area of Maidstone. The streetscene is a mixture of semi-detached and detached properties of differing scale, design and age.

2.0 PROPOSAL

- 2.01 The proposal is for the erection of a single storey side extension which projects beyond the front, two storey rear and side extension, and extension of the hipped roof. It would provide increased floor space and an additional bedroom.
- 2.02 The proposals would be built with a mix of materials consisting of natural timber cladding, coloured render, and powder coated aluminium windows and doors.

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: H18
- Final Draft Maidstone Local Plan: DM1, DM9 and DM23
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Supplementary Planning Documents: Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (adopted May 2009)

4.0 LOCAL REPRESENTATIONS

- 4.01 **Local Residents:** 6 representations received from local residents and The Bearsted & Thurnham Society raising the following (summarised) issues:

- Loss of light/overshadowing
- Loss of privacy
- Overbearing
- Design and materials are out of character
- Scale, form, and character are not in keeping with the original house
- Sewage impact

- 4.02 **Local Residents:** 2 representations received from local residents in support of the application based on the following (summarised) reasons:

- Two-storey extension has been approved at neighbouring properties
- Shirley Way comprises of houses in different characteristics

5.0 CONSULTATIONS

- 5.01 **Bearsted Parish Council:** No objections to this application.

- 5.02 **Councillor Springett:** *"I am writing to object to the above application on the basis of loss of light and amenity to number 6 Shirley Way. Should you be minded to approve it, I would like the application to be determined by the planning committee in order to allow neighbours to raise their concerns with the committee."*

6.0 APPRAISAL

Main Issues

- 6.01 The main issues to consider for this application are the impact the proposed development would have on the character and appearance of the host dwelling and the streetscene and on the residential amenity of neighbouring properties.

Residential Amenity

- 6.02 With regards to 10 Shirley Way, the single storey part would not extend beyond the conservatory and with a similar height, it would not cause any harm. The two-storey part is set in from the shared boundary so would not be overbearing or cause a loss of light. In terms of privacy, no side windows are proposed facing this neighbour. The proposed first floor rearwards windows would not have a significantly different impact than existing views.
- 6.03 6 Shirley Way is situated adjacent to the proposed side extension with a gap of approximately 2.1m. This neighbouring property has a two-storey side extension, single storey rear extension, and rear conservatory. The proposed two-storey extension would be in line with the neighbouring conservatory and the gap is sufficient such that there would not be a harmful impact upon light received to the conservatory or first floor windows. It would not interfere with the rear outlook of this property due to the separation distance and the gabled roof.
- 6.04 In terms of privacy to 6 Shirley Way, the new first floor high level window would serve a bathroom, and another would serve a bathroom and hallway. To ensure an acceptable level of privacy remains, it is appropriate to condition the two first floor side windows serving the bathroom to be obscure glazed and non-opening (below 1.7m from internal floor level).
- 6.05 The neighbours to the south of the application on Copsewood Way are separated by more than 40m from the property and therefore, it is considered the property is sufficiently separated from its rear neighbours for any impact on amenity.

Visual Impact

- 6.06 In terms of the front porch, there is no uniform front building line at Shirley Way and many of the dwellings in vicinity have front porches including the adjoining neighbour, thus the proposed front extension would not harm the character or appearance of the streetscene. Whilst the proposal would introduce new materials, Shirley Way is generally made up of residential properties with a mixture of materials and the introduction of timber cladding and coloured render on the property is not considered to be unduly harmful.
- 6.07 In terms of the roof extension, Shirley Way is characterized with a mix of semi-detached and detached properties in varied design and roofstyle. Given the street does not have a uniform roofstyle, and there is a barn-hipped roof next door, the loss of symmetry in this case is not considered to result in significant harm to the streetscene.

- 6.08 The proposed two-storey extension has maintained the existing eaves height and is set down from the ridge, which is considered sympathetic to the host dwelling. It is also sufficiently set back (approx. 7m) from the front elevation, such that it would not have any significant impact to the streetscene.
- 6.09 Although the proposed two-storey side extension would have a gap of approximately 2.1m (below the recommended gap of 3m by the Residential Extensions SPD) Shirley Way has a considerable variation in gaps between properties and a 1m gap is evident between No.10 and No.12. This together with the considerable set back would not be harmful to the area.

Other Matters

- 6.10 The driveway of the property would provide a minimum of three parking spaces and is considered sufficient.
- 6.11 In regards to the sewage concern raised by neighbour, given the proposal is an extension to an existing dwelling, the increase of sewage is insignificant to be a material issue.

7.0 CONCLUSION

- 7.01 It is considered that the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. I therefore recommend approval of the application on this basis.

8.0 RECOMMENDATION

GRANT planning permission subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Floor Plans & Elevations, No. 1578 10 G received on 3rd July 2017

Reason: To clarify which plans have been approved.

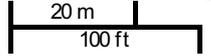
- (3) The materials to be used in the development hereby approved shall be as indicated on the approved plans unless otherwise approved in writing by the Local Planning Authority;

Reason: To ensure a satisfactory appearance to the development

- (4) Before the development hereby permitted is first occupied, the proposed first floor side windows serving the bathrooms shall be obscure glazed and shall be incapable of being

opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.



17/503487 - Wickam Field

Scale: 1:1250

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REPORT SUMMARY

19 October 2017

REFERENCE NO - 17/503487/FULL		
APPLICATION PROPOSAL - Construction of 2 bedroom, self-build, detached bungalow.		
ADDRESS - Wickham Field, Pattenden Lane, Marden, Kent		
RECOMMENDATION - REFUSE		
SUMMARY OF REASONS FOR RECOMMENDATION – The proposals are considered to cause significant harm to the character of the countryside. The self-build nature of the scheme; and the personal circumstances advanced are not considered sufficient to outweigh the environmental harm.		
REASON FOR REFERRAL TO COMMITTEE - Marden Parish Council has requested committee consideration.		
WARD Marden Yalding	And Marden	PARISH/TOWN COUNCIL Marden
APPLICANT Mr Kim Gibbs		AGENT Mr Michael Gibbs
DECISION DUE DATE 23/10/17	PUBLICITY EXPIRY DATE 11/8/17	OFFICER SITE VISIT DATE 31/7/17
RELEVANT PLANNING HISTORY		
15/507988/FULL - Erection of two pairs of three-bedroom semi-detached dwellings and one two-bedroom bungalow. Provision of a new 150m public footpath – Refused and appeal dismissed.		
MA/12/2069 - Erection of 6 affordable houses with associated access, parking and amenity space – refused.		
14/500727/FULL - Redevelopment of existing builder's yard including erection of detached house, 2-bay car port, access driveway and parking area together with ancillary works - Approved [dwelling now completed and occupied to the south west of the site]		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site involves a small grassed paddock located off the western side of Pattenden Lane. The land may have been an old orchard but is now largely devoid of vegetation and does not appear to be in active agricultural use. This is land in the countryside just beyond the defined village boundary of Marden. The land fronts the lane and is separated from it by an established hedge and small grassed verge bordering the highway. A new access road has been created at the southern end of the site to serve properties further west: that was a replacement for a pre-existing access located further south that has now been closed.
- 1.02 The land is bordered to the north by a close boarded fence, beyond which is a row of cottages and their gardens. Pattenden Lane is to the east whilst to the south is the aforementioned new access road with cottages and gardens beyond that. To the south west is the new detached dwelling and its garden permitted under reference

14/500727/FULL on what was regarded as a 'brownfield' site (now named Wickham Barn, occupied by the applicant's son). To the west is more open land containing a shaw of trees.

2.0 PROPOSAL

- 2.01 The application proposes the erection of a detached bungalow in the middle of the paddock served by a short access drive leading north from the aforementioned new access track. This would be an 'L-shaped' structure accommodating two bedrooms and a double garage and a particular characteristic of the design is the modest scale of openings in the elevations, save for the west elevation which features large glazed external doors to light the living room.
- 2.02 External materials would involve black vertical timber boarding and a brick base under a reconstituted slate roof. The roof is hipped with rooflights and the south elevation has a solar array installed within the roof slope. The height to the ridge line of the roof is approx. 4.8m. The application states that the proposed dwelling would meet Code Level 6 of the Code for Sustainable Homes.
- 2.03 The application is presented on the basis that this would be a 'self-build' project: the applicant is a building contractor and the family built Wickham Barn as a self-build project. Mr and Mrs Gibbs are entered on the local self-build register. In addition to that, the point is made in the application that the applicant and his wife are elderly local people requiring accommodation. Mrs Gibbs has significant medical problems (a doctor's letter is provided) and the new dwelling would facilitate the provision of care and close proximity to her son-in-law's family.

3.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28
Final Draft Maidstone Local Plan 2017: SP9, SP17, SP19, DM1, DM2, DM3, DM30

4.0 LOCAL REPRESENTATIONS

- 4.01 **Marden Parish Council**, in its first response stated: "If Maidstone Borough Council is satisfied that the policy position with regard to Self-Build Properties is sufficient to over-ride the normal policy protection afforded to green field sites in the countryside under Policy ENV28 etc., then Cllrs would not then object to the principle of the application. Cllrs have no objection to the design of the building itself but would wish it to be brought forward so that it aligns with the neighbouring buildings along the west side of Pattenden Lane. Due to the unusual nature of the application Cllrs would ask for this go to Committee if the Officer is recommending refusal."
- 4.02 I subsequently relayed my (at that time informal) view to the parish that the application would be unlikely to be looked upon favourably and questioned whether it needed to be reported to planning committee. The Parish Council responded:
- "Cllrs thank the case officer for his response and the issues raised have duly been considered in a formal meeting. However, Cllrs still wish this to be heard at Planning Committee because:
- (a) The Self-Build and Custom House Building Act 2015 is so new that the Borough has not been able to allocate any sites for self-build properties in its Local Plan

(b) The Borough Council appears to have no published information on its Policy regarding the allocation of sites for self-build properties, and

(c) Cllrs feel it is sufficiently unusual to be discussed by the Planning Committee to establish whether this is a suitable site for a self-build property in the absence of a Local Plan allocation.”

4.03 **Local Residents:** no views received.

5.0 CONSULTATIONS

5.01 **KCC Highways and Transportation** has no comment.

5.02 **Env. Health Shared Service** has no objection.

6.0 APPRAISAL

Main Issues

The key issues for consideration with this application relate to the principle of new housing in this location; the location in terms of sustainability issues; the impact on the character of the countryside; and the implications of this being a self-build project.

The Principle of Development

6.01 Looking at Development Plan Policy, both the existing and the emerging Local Plan place the application site beyond the defined limits of any settlement and it is therefore subject to those policies that seek to restrict new residential development in the defined countryside. Policies in the Final Draft Maidstone Local Plan 2017 should now be regarded as having a status of approaching full weight as that Plan is now nearing full adoption. Policy SP17 of the emerging plan indicates that new housing development in the countryside that is considered to cause harm to character should be refused and therefore the extent to which the proposals cause harm requires close examination.

6.02 It is also necessary to consider whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified.

6.03 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should be able to demonstrate a five year supply of housing land: given the final comments of the Local Plan Inspector, the Council can clearly now demonstrate an adequate housing supply and therefore countryside protection policies can be given full weight.

Location

6.04 Whilst this building is located in the defined countryside the urban/rural boundary as determined by the Local Plan is only around 100m away to the south where there are bus services and basic services. There are clearly opportunities here for accessing services on foot, cycle or shared motor vehicle trips and I consider the site to be in a reasonably sustainable location in the sense that there would not be an over-reliance on the private motor vehicle.

Impact on Countryside Character

- 6.05 The impact of the development on the character of the area is a fundamental issue for consideration. In my view, although there are pockets of more densely developed housing, the prevailing pattern of development in this area to the north of the village boundary is generally loose and irregular. The gaps between buildings in the pattern of frontage development are important in reinforcing the rural character of this locality. The gaps between properties fulfil a role in avoiding the coalescence of the site frontage. In this case there is a large gap (ie the application site paddock) between Dorma Cottage (to the north) and Printers Cottage (to the south) that would be largely occupied by the new house and associated works. I consider that the increase in built development here would result in a significant diminution of the gap between properties: physically, it would reduce forever the amount of land available to form the separation function: visually it would introduce built form onto undeveloped land, reducing the openness of this part of the countryside which forms the northern approaches to the village of Marden.
- 6.06 In my view, the negative aspects of filling or, at least, interrupting this open space are exacerbated by the rather bland and uninteresting design put forward here; particularly so the east (ie road-facing) elevation which presents a largely blank wall.
- 6.07 There are no trees of any significance that would be directly affected by the development proposed. The application states an intention to the landscape the site but there is no firm detail of that.

Ecology

- 6.08 The application is accompanied by A Phase 1 Habitat Survey and Great Crested Newt Report. Given that much of the site involves mown grassland it is not surprising that the report generally concludes that the site is of low value. No suitable habitat for great crested newts would be directly affected by the proposals; however, four ponds a short distance to the west of the site have been found to support populations of great crested and smooth/palmate newts. In view of that, a mitigation strategy has been drawn up to reduce the risk of encountering newts during development; and an enhancement strategy involving a hibernacula, land management of the western extremity of the site, creation of meadow areas, and the establishment of a native hedgerow along the northern boundary. I conclude that there is no reason to object to this application on ecology grounds and, if permission were to be granted, then the above mitigation/enhancement measures should be secured by conditions.

The Implications of Self-Build

- 6.09 The government has issued Planning Practice Guidance in the form of 'Self-build and custom housebuilding' (2016) pursuant to the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). Councils are required to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding

Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period.

The first base period begins on the day on which the register (which meets the requirement of the 2015 Act) is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period. Subsequent base periods will therefore run from 31 October to 30 October each year. At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period. In short, in this Council's case, the Council has three years from 30th October 2017 to address the self-build housing needs evident in the register.

- 6.10 The Council recognises the need to promote self-build projects but there is a three year period in which to address need and this must be balanced with other planning factors: in this case I consider the environmental harm caused by this project outweighs the benefits of self-build and the desire to establish a dwelling for local residents, one of whom has significant health problems.

Other Issues

- 6.11 The site has no close residential neighbours and there would be no adverse impact on local residents in terms of loss of light, loss or privacy, excessive noise and disturbance, etc. I note that no objections have been received on that basis. I am satisfied that the occupants of the dwelling would enjoy at least a reasonable living environment with little road noise and reasonable private garden.
- 6.12 Turning to highways matters, the dwelling would be served by an off-shoot of the new access track which I judge to be adequate to serve the house. There would be adequate space on site for parking and turning
- 6.13 On the issue of flooding, the latest flood zone information does not show the site to be within either Flood Zone 2 or 3. Nevertheless a Flood Risk Assessment has been submitted with the application which concludes that there are no significant flooding implications but recommends that various minor flood resistance/resilience measures be incorporated as well a sustainable drainage system and securing advanced warning of flooding. These factors could be secured by conditions should it be decided that permission be granted.

7.0 CONCLUSION

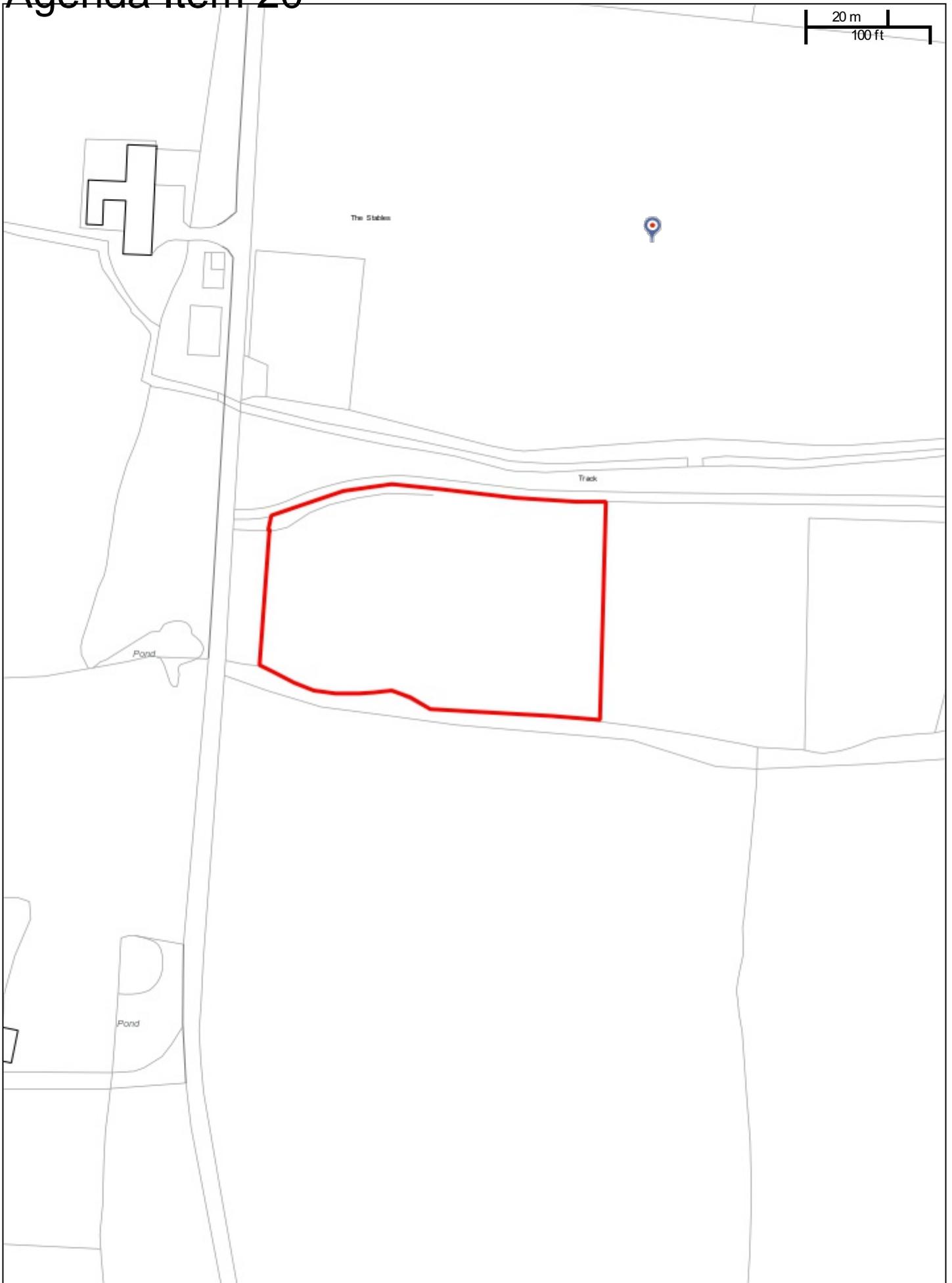
- 7.01 In terms of sustainable development, this scheme to provide one new house would provide some very modest benefits to the local economy and, from the social aspect, to the housing supply, including the supply of self-build dwellings. However, in my consideration it fails to meet the environmental dimension, given the harm that I have identified. I am not convinced, therefore, that the proposal can be regarded as sustainable development. Accordingly, it does not enjoy the presumption in favour of such development, as set out in the Framework. I find that the negative aspects of this scheme are such that they significantly and demonstrably outweigh the benefits of the application when assessed against the policies of the NPPF as a whole. I recommend that the application be refused.

8.0 RECOMMENDATION

REFUSE planning permission for the following reason:

- (1) The site is outside of any settlement as defined in the Maidstone Borough-Wide Local Plan 2000 and the Final Draft Maidstone Local Plan 2017. Development of this site with a new house and associated development would unacceptably erode the openness of the area and consolidate the loose pattern of built environment in the locality. This would result in significant harm to the character of the countryside contrary to Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000; Policies SP17, DM1 and DM30 of the Final Draft Maidstone Local Plan 2017; and the advice in paragraph 17 of the National Planning Policy Framework 2012 that states that planning should recognise the intrinsic character and beauty of the countryside.

Agenda Item 20



20 m
100 ft

The Stables



Track

Pond

Pond

REPORT SUMMARY

REFERENCE NO - 17/504081/FULL		
APPLICATION PROPOSAL		
Removal of condition 1 requiring site vacation after 3 years and condition 2 seeking removal of named occupier appending to planning permission 15/501528 (Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective)).		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Tonbridge		
RECOMMENDATION - APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE		
RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr P Roots AGENT
DECISION DUE DATE 29/09/17	PUBLICITY EXPIRY DATE 07/09/17	OFFICER SITE VISIT DATE 17/8/17

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with an west to east orientation. Existing gypsy and traveller (G&T) development abuts the site to the east and west. These are shown on the plan to be displayed at the Committee meeting identifying lawful and unauthorised sites in the locality. The site is set just under 20 metres back from Maplehurst Lane. There is an existing mobile home, stable block and utility room abutting the southern site boundary with the remaining area mainly made up of an open paddock and hardstanding.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan. In the emerging local plan the site falls within open countryside identified as a landscape of local value.

2.0 RELEVANT PLANNING HISTORY

- 2.1 15/501528: Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective). – APPROVED 26/06/17

3.0 PROPOSAL

- 3.1 Planning permission ref: 15/501528 above was granted subject to a number of conditions including conditions 1 and 2 worded as follows:

Condition 1:

Within 3 years from the date of this consent or the site being vacated by the applicant or his family (whichever is the sooner) all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings the stable block and the utility room shall be removed within 3 months of cessation of the use and the site restored to a condition to be approved in writing beforehand with the Local Planning Authority unless permission is obtained beforehand for a further period.

Reason: In the interests of visual amenity and to enable the position to be reviewed at the end of the stated period.

Condition 2:

The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015 and shall only be occupied by Paul Roots , Tammy Phillips and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- 3.2 However the Committee report and conditions considered by the Planning Committee at its meeting on the 25th May 2017 (attached as **APPENDIX 1**) did not include the above conditions and the Planning Committee resolved to grant planning permission without these conditions.
- 3.3 The planning permission issued nevertheless had conditions 1 and 2 above appended. The applicant wishes conditions 1 and 2 set aside to ensure occupation of the site accords with the intentions of the Planning Committee and his own requirements.

4.0 POLICY AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Neighbourhood Plan
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies:SP17, DM15, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 26 neighbouring properties consulted – 5 objections received which are summarised below:

- Occupation of the site results in landscape harm, drainage and harm to the free flow of traffic and highway safety.
- No further consent should be granted until the outstanding breaches of planning control has been regularised.
- Following a recent appeal decision the occupation of the site should be the subject of a heritage assessment.
- The heritage character of the area and setting of Listed Buildings continue to be harmed while the site remains occupied by G&T development.
- The matter of the applicants G&T status has not been properly assessed and removal of the conditions would compound this failure.
- Refer to nearby appeal decisions APP/U2235/W/16/3155702 & APP/M2270/W/16/315571 dismissed on grounds of harm to landscape and setting of nearby LB's and other heritage assets and consider same considerations should apply here.
- Removal of the conditions will ensure there is no opportunity for the site to be returned to open countryside.
- Removal of condition will allow subdivision of the sites to continue.

One representation supporting the proposal which is summarised as follows:

- Represent other Travellers nearby and have followed this case online and watched the pod cast of Committee meeting.
- Consent was granted in accordance with the case officer report and not subject to temporary or personal conditions.
- As such do not understand why the decision issued on 26 June contained these two conditions.

6.0 CONSULTATIONS

- 6.01 **Staplehurst PC:** The conditions having been applied to the granted permission should be complied with and enforced. For this reason recommended the application be **REFUSED**.
- 6.02 **Kent Highways:** No objection
- 6.03 **Weald of Kent Protection Society:** Object as no justification put forward for the proposed changes.

7.0 APPRAISAL

- 7.1 Members originally determined this application on the basis of granting a permanent non personal G&T consent for this site (report attached as **APPENDIX 1**) However the decision notice issued included both time limited and personal occupancy conditions contrary to the Committee resolution and was an error.
- 7.2 Regarding whether there have been any material change in planning circumstances since this decision was issued, when application ref: 15/501528 was considered policy DM16 of the emerging local plan (ELP) specifically relating to G&T development was referred to. This policy was amended by the local plan inspector and renumbered DM15. Criterion 2 was amended to state that planning permission for G&T development would be granted if it would not result in significant harm to the landscape and rural character of the area. The requirement remains that the

development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

- 7.3 At the time policy DM15 could only be given limited weight given the stage of the ELP in moving towards formal adoption. However the situation has now changed in that the ELP is now close to formal adoption. As such policy DM15 can now be given very significant weight in determining G&T applications.
- 7.4 Given the circumstances set out in the Committee report attached as **APPENDIX 1**, that very significant weight can now be given to policy DM15 of the ELP and there has been no material change in site circumstances, it remains the case there is no planning justification for making occupation of this site either temporary or personal to the applicant.

Other matters

- 7.5 Objectors refer to harm to the landscape, highway safety, drainage concerns and impact on heritage assets. They also seek to question the G&T status of the applicant claiming this failed to take into account latest Government Guidance. However all these matters were assessed in the Committee report attached as **APPENDIX 1**.
- 7.6 Regarding the appeal decisions referred to, these relate to applications refs:15/503884 and 15/505149 relating to land At Pullen Farm Staplehurst Road Frittenden in connection with use of land to provide a solar farm and its enclosure by fencing; with the erection of solar panels, along with the provision of associated transformers, switch gear housing and a substation.
- 7.7 Given the scale of these proposals it is considered they are not comparable to what is now being sought i.e. to permit a committed G&T site to be occupied in accordance with the original intentions of the Planning Committee.

8.0 CONCLUSION

- 8.1 In the absence of any material change in planning policy or site circumstances since planning permission was granted under ref: 15/501528, it is considered there is no objection to planning permission being granted enabling the site to be occupied for G&T purposes on a permanent and non personal basis. As such permission should be granted for the current proposal reflecting the original Committee resolution for this site.

9.0 RECOMMENDATION – GRANT Subject to the following conditions

- (1) The site shall only be used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

- (2) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (4) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (5) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

If the details are not (a) submitted and (b) implemented within the stated periods the use of the site for gypsy and traveller purposes shall cease, the mobile home, touring caravan any hardstandings and other related development be removed and the site restored to its previous condition.

Reason: in the interests of health and safety and to prevent water pollution

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015 in connection with application ref: 15/501528.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Caravan site licence:

It will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.

General waste provisions:

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager. Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

REPORT SUMMARY

REFERENCE NO - 15/501528/FULL		
APPLICATION PROPOSAL Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective).		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE		
RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr P Roots AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 16/03/16

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with an west to east orientation. Existing gypsy and traveller (G&T) development abuts the site to the east and west. This is shown on the plan attached as **APPENDIX 1** identifying lawful and unauthorised sites in the locality. The site is set just under 20 metres back from Maplehurst Lane. There is an existing mobile home stable block and utility room abutting the southern site boundary with the remaining area mainly made up of an open paddock and hardstanding.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 Retrospective planning permission is sought to retain an existing mobile home to be used for G&T accommodation by the applicant and his family along with a utility room having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance which came into force in August 2015 requires persons claiming gypsy and traveller status to provide evidence to show they intend to carry on a nomadic /traveller lifestyle. To fall within the definition of a nomadic lifestyle requires the adult occupants of the site move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:

- Take wife and sons to Appleby and Stowe for 2-3 weeks at a time where they meet up with family and friends along with carrying out tree and roofing work.
- The site is occupied by Paul Roots (the applicant) and Tammy Phillips, Jesse Phillips (8), Vinnie Phillips (6), Isaiah Phillips (4) Elijah Phillips (1) and Delilah Phillips (4 months)
- Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
- Eldest son wants to be a farrier and two other sons attend Marden Primary school.
- Still intend to travel but to ensure the children maintain their education means that this will be more restricted.
- The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.

- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.

- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.

- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.

- 3.3 Turning to the application site, subject of this application, the site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

Reason: To accord with the terms of the application and in the interests of the visual amenity.

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the east is another G&T site for which part retrospective planning permission is being sought under ref:MA/15/501537 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The current application site abuts the eastern boundary of the Blossom site fronting Maplehurst Lane (also falling within the Perfect Place site). Planning permission was granted on the Blossom site under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) attached as **APPENDIX 2**.
- 3.6 In summary the lawfulness of the Blossom decision was challenged on five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. It would normally be the case that the application would be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Neighbourhood Plan
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies:SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 8 properties were notified of this application 9 objectors have made representations which are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.2 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Councils current GTAA allocation based on an outdated definition of gypsies and is therefore no longer reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.3 Weald of Kent Protection Society: Object on the following grounds:

- Applicant assumes gypsy status qualifies for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore application is sent from an existing address in a residential area, and the Planning Authority needs to question inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.4 Heritage Protection: Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 CONSULTATION RESPONSES

6.1 Staplehurst Parish Council: Wish to see the application refused for the following reasons:

- Compound existing drainage and flooding problems and the overwhelming impact of over intensification on existing residents.
- Felt the cumulative impact of the application was unsustainable and would intensify previous piecemeal and irregular development in the countryside in contravention of Maidstone Borough-Wide Local Plan Policy ENV28 and of DCLG Planning Policy covering sites in rural or semi-rural settings and the need to ensure that the scale of such sites do not dominate the nearest settled community

6.2 Kent Highways: Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;

- Understand that the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.

- 6.3 **EA:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend that the development is the subject of a Flood Risk Assessment (FRA).
- 6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:
- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 The development is shown on drawings received on the 23rd March 2015 and site location plan drawn at a scale of 1:500 showing the application site area outlined in red. Letter relating to the applicants gypsy status received on the 16th March 2016.

8.0 APPRAISAL:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan and policy PW2 of the Staplehurst Neighbourhood Plan. Policy states ENV 28 states that:

"In the countryside planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers, and development will be confined to:

- (1) that which is reasonably necessary for the purposes of agriculture and forestry; or*
- (2) the winning of minerals; or*
- (3) open air recreation and ancillary buildings providing operational uses only; or*
- (4) the provision of public or institutional uses for which a rural location is justified; or*
- (5) such other exceptions as indicated by policies elsewhere in this plan."*

- 8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states that proposals which accord with other policies in the plan and do not harm the countryside will be permitted. Policy PW2 of Staplehurst Neighbourhood Plan states that development outside development boundaries will be assessed according to its impacts on landscape features and other matters and where these impacts cannot be addressed, development will not be supported.
- 8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural

character of the area. The requirement remains that the development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented a departure from the Development Plan. In such circumstances it falls to consider whether there are any overriding material considerations justifying a decision not in accordance with the Development Plan and whether granting planning permission would result in unacceptable demonstrable harm which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e) sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development and PW2 requires development to be able to acceptable in relation to its impact on a range of matters including landscape impact
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.
- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

- 8.14 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles
20 Permanent personal mobiles
3 Temporary non-personal mobiles
33 Temporary personal mobiles

- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 8.18 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.
- 8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply if the development is found to be unacceptable for other reasons.

Gypsy status

- 8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

"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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

- 8.22 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 8.23 In response to the above the applicant advised the following:
- Take wife and children to Appleby and Stowe for 2-3 weeks at a time where meet up with family and friends along with carrying out tree and roofing work.
 - Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
 - Eldest son wants to be a farrier and two other sons attend Marden Primary school.
 - Still intend to travel but to ensure the children maintain their education means that this will have to be more restricted.
 - The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.
- 8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.
- 8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in

the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.

- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.29 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.30 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account. Policy PW2 of the SNP states the development should be able to address its impact on a range of matters including landscape features and visual setting.
- 8.31 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.32 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did

not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.

- 8.33 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.34 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.35 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.36 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.37 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance by just over 20 metres with access onto an existing track. The mobile home is tucked up against the southern site boundary. Notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained, views are available through the access. As such the mobile home is partly visible and by implication, has some but limited impact on the character of the countryside and landscape quality of the SLA.
- 8.38 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.
- 8.39 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings and given their small size and unobtrusive siting it is considered they will have little impact on the rural character or landscape quality of the area.

CUMULATIVE VISUAL IMPACTS

- 8.40 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area..
- 8.41 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.42 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan can now be given weight in the determination of this application it is silent on specific G&T and landscape issues.
- 8.43 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value and PW2 of the Neighbourhood plan seeks to conserve landscape features of the countryside.
- 8.44 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.
- 8.45 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.46 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.

- 8.47 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.48 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.49 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it appear perverse to adopt a different approach to this development.
- 8.50 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.51 Given the distant siting of the nearest houses it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.52 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.53 Objections to the development include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.54 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.55 This is a retrospective application with the site occupied by the mobile home and existing buildings with the remainder laid out as hardstanding or grassed. It therefore clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.56 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.57 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.58 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.59 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage have also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.60 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using its pollution prevention powers will be far better placed to take immediate action in such an eventuality.
- 8.61 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.
- 8.62 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant polices. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area

9.2 The key conclusions are considered to be as follows:

- The occupants of the site fall within the revised definition of gypsies and travellers.
- The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
- Has not resulted in any material loss of amenity to dwellings in the locality.
- Is acceptable in sustainability and wildlife terms.
- Is acceptable in its highway impacts.

9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 RECOMMENDATION – GRANT planning permission subject to the following conditions

1. The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

- (3) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (5) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside.

- (6) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (7) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (8) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Caravan site licence:

It will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.

General waste provisions:

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager. Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

The Council's approach to this application:

Planning Committee Report

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application, following the receipt of additional information, was acceptable as submitted.

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 19.10.2017**

APPEAL DECISIONS:

- 1. 16/506707** Demolition of office building and construction of 12 dwellings (flats and houses), car parking, cycle storage and amenity space (Resubmission of 16/503147/FULL).
- APPEAL:** Allowed with Conditions
- 57 - 59 Church Street
Tovil
Kent
ME15 6RB
- (Committee)
-
- 2. 16/506756** Demolition of the existing commercial buildings on the site and the construction of 5 no. dwellings alongside associated parking, access and landscaping works.
- APPEAL:** Dismissed
- Wilsons Yard
George Street
Hunton
Kent
- (Committee)
-
- 3. 16/506608** Approval of Reserved Matters for the erection of 67 dwellings (Appearance, Landscaping, Layout and Scale being sought) pursuant of outline planning permission 14/502973/FULL allowed on appeal for erection of 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works.
- APPEAL:** Dismissed
- Land West Of Ham Lane
Lenham
Kent
ME17 2LP
- (Delegated)

4. 16/503947

Retention of existing dwelling at No.3 Hockers Lane. Construction of new single storey dwelling at rear of No.3; Demolition of existing dwelling and ancillary buildings including garages at No.1 Hockers Lane, and construction of replacement chalet dwelling and garage.

APPEAL: Allowed with Conditions

3 Hockers Lane
Detling
Kent
ME14 3JL

(Committee)

5. 16/508524

Change of use of existing annex to a separate 2 bedroom dwelling.

APPEAL: Dismissed

Hazel Street Cottage
Hazel Street
Stockbury
Kent

(Delegated)

6. 16/505005

Permanent stationing of two additional mobile homes for the applicant's dependants.

APPEAL: Allowed with Conditions

Little Boarden
Boarden Lane
Staplehurst
Kent

(Committee)
