

<b>REFERENCE NO - 18/506270/FULL</b>		
<b>APPLICATION PROPOSAL</b> Application for one additional mobile home and one additional tourer. (Resubmission of 18/502176/FULL) (Retrospective)		
<b>ADDRESS</b> The Oaklands Lenham Road Headcorn TN27 9LE		
<b>RECOMMENDATION - GRANT PLANNING PERMISSION</b> subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.  The current application for one additional mobile home and one touring caravan represents a less intensive development of the plot than that recently refused planning permission under reference 18/502176/FULL.  In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of the existing unauthorised access and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear (north-western) and side (south-western) boundaries and the Lenham Road frontage of the plot, will not have a significant and unacceptable harmful visual and landscape impact in the locality.  The current extent of the plot back from the Lenham Road frontage extends significantly into the designated area of Ancient Woodland to the rear of the plot and it would appear that a significant number of established trees that formerly existed on the land have been lost over time and the landscape harmed.  The reduction in the depth of the current plot proposed in the current application will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.  The native species planting proposed to the rear, side and Lenham Road frontage of the plot will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements could be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).  The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition can be imposed on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The recommendation is contrary to the views of Headcorn Parish Council.		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Ulcombe	<b>APPLICANT</b> Mr James Cash <b>AGENT</b> N/A
<b>TARGET DECISION DATE</b> 30/08/19		<b>PUBLICITY EXPIRY DATE</b> 30/01/19

**Relevant Planning History**

MA/01/1181 - Stationing of 2 caravans & utility room. Refused 01.07.02.

Appeal against 2 enforcement notices issued 03.11.08 by Maidstone Borough Council:

ENF/10155 (Enforcement notice A) – Without planning permission the change of use of the land from a mixed use of woodland and nil use to stationing and residential occupation of caravans, the parking and storage of motor vehicles, the erection of fencing on the site and a new entrance gate at the access onto Lenham Road and the placing on the land of domestic and other paraphernalia all ancillary to the residential occupation of caravans on the land. Appeal allowed and enforcement notice quashed 24.07.09.

ENF/10155 (Enforcement notice B) – Without planning permission, operational development comprising of the construction of hardsurfacing and engineering operations comprising the infilling of a pond. Appeal allowed and enforcement notice quashed 24.07.09.

MA/09/1722 - An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

MA/11/1122 - An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

18/502176/FULL - Proposed siting of 3 additional mobile homes and 3 touring caravans at 1 Martins Gardens. Refused 12.10.2018.

The current application represents a revised submission following the refusal of the above application reference 18/502176/FULL. The previous application was refused planning permission on the following grounds:

- 1) 'In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character, appearance and landscape of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018)'.
- 2) 'The access constructed to Lenham Road and the associated gates, brick piers and timber boarded front boundary fencing is visually incongruous and intrusive in the roadside views and is harmful to the rural character of the road and the visual amenity along the road generally, contrary to the aims and requirements of policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Borough Local Plan (Adopted October 2017) and Government guidance in the NPPF (2018)'.
- 3) 'The intensification of the use of the site for the stationing of mobile homes has resulted in the significant encroachment of the use into a designated area of Ancient Woodland and the significant loss of trees and soils from the area of Ancient Woodland and trees and hedgerows from the frontage to Lenham Road and the front part of the south-western side boundary to the detriment of the visual amenity and landscape of the open countryside location which forms part of Low Weald Landscape of Local Value and the ecological and wildlife interests of the site, contrary to policy DM3 of the Maidstone Borough Local Plan (Adopted 2017) and Government guidance in the NPPF (2018)'.

18/504256/FULL - Proposed siting of 2 mobile homes, 2 touring caravans and a utility room at 2 Martins Gardens. Refused 11.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact; 2) Impact on designated area of Ancient Woodland.

18/504254/FULL - Proposed siting of a mobile home, touring caravan and a utility room at 3 Martins Gardens. Refused 19.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact.

18/500925/FULL - Two additional mobile homes at 5 Martins Gardens. Refused 01.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact.

18/500924/FULL - Stationing of 2 additional mobile homes to be occupied by Gypsy and Traveller families at 6 Martins Gardens. Refused 28.06.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact.

18/500785/FULL - Erection of dayroom at 6 Martins Gardens. Refused 28.06.18.

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The site is located off the north-western side of Lenham Road and comprises the south-western most plot of a row of Gypsy sites running north-eastwards from the site along Lenham Road. Unlike the five neighbouring plots to the north-east which are accessed from a shared accessway off Lenham Road, the application plot has a frontage and separate access to Lenham Road.
- 1.02 The plot access comprising 2m approx. high brick piers with splayed brick walls either side and timber gates is currently unauthorised from a planning point of view. Beyond the rear (north-western) part of the site is a group of trees and a pond. The boundaries of the site are enclosed by 2m approx. high timber fencing and there is a line of trees along the south-western side boundary. Beyond the trees and pond to the rear of the site and along the south-western boundary is open field.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six plots. To the rear of the plots at the south-western end of the row of Gypsy sites, including the rear of the current application plot, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The rear part of the current application plot extends into the designated area of Ancient Woodland.
- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan. The site is also within a KCC Minerals Safeguarding Area.
- 1.05 The plot referred to in the current application as The Oaklands (1 Martins Gardens with regards to the Relevant Planning History listed above) benefits from planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room. The plot, as approved by the planning permission, was accessed via the shared accessway serving the neighbouring plots in Martins Gardens as opposed to via the separate access which has been formed to Lenham Road.

## **2. PROPOSAL**

- 2.01 The site, as noted above, benefits from planning permission granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot.
- 2.02 The current application seeks planning permission for the stationing of one additional mobile home and one additional touring caravan on the plot. The submitted plan shows the additional mobile home to be sited to the front (south-east) of the existing approved mobile home on the plot which is more or less centrally located within the current plot.
- 2.03 The Design & Access Statement submitted in support of the application states that the mobile home will be occupied by a family member of the applicant and his girlfriend who is pregnant and now needs a stable base. The Design & Access Statement further states that although the family member has been travelling and using the roadside to stop in, he now needs a stable base to bring up his child and enable the child to get an education. The Design & Access Statement states that travelling gypsies are not accepted in schools as they don't have addresses and without a permanent base for the applicant's family member's girlfriend and child, the child will not be able to be registered anywhere.
- 2.04 The current application is a revised submission following the refusal of planning permission 12.10.18 under application reference 18/502176/FULL for the proposed siting of three additional mobile homes and three two touring caravans on the plot. The current application reduces the proposals to one additional mobile home and one touring caravan.
- 2.05 Apart from the currently unauthorised access which has been formed to Lenham Road, the current mobile home plot at The Oaklands is significantly more extensive than that granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot and extends to a significantly greater depth back (some 18m approx.) from Lenham Road than that granted on appeal. The current application shows the depth of the current mobile home plot to be reduced to be more in line with that granted on appeal in 2009 and a 5m wide native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. In addition, the proposed native species landscaped buffer is shown to be continued along the south-western side boundary of the plot.
- 2.06 The current application also shows the existing unauthorised access on Lenham Road to be removed and new hedgerow planting reinstated along the road frontage in its place. New access is to be formed to the plot off the shared accessway serving the five neighbouring plots in Martins Gardens to the north-east as per the development granted on appeal in 2009.

## **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30  
Landscape Capacity Study: Sensitivity Assessment (2015)  
Landscape Character Assessment (2012 – amended 2013)  
Landscape Character Assessment Supplement (2012)  
KCC Minerals Plan

## **4. LOCAL REPRESENTATIONS**

**Local Residents:**

4.01 One representation received from a local resident raising the following (summarised) issues:

- There is constantly floodlighting on at night which points towards the road and the neighbouring home and on occasions there are very loud arguments/disturbances in the early hours of the morning. Additional residences on the site would only increase these disturbances to the neighbouring residents and would detract from the enjoyment of living in the otherwise quiet countryside.

#### **Shenley Farms (Aviation) Limited**

4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

### **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

#### **Headcorn Parish Council**

5.01 The Planning & Licensing committee agreed that the application should be refused and that there were a number of areas that should be considered by the Local Planning Authority when considering the application, in particular:

- The gypsy/traveller status of the applicant;
- Whether the applicant previously led a nomadic habit of life;
- Given that the LPA can demonstrate a 5.3 year supply of gypsy and traveller site, there is no "unmet or proven need" to consider;
- New traveller site development in the open countryside should be strictly limited;
- The area is now largely concrete hardstanding and this has had an adverse effect on drainage in the area and now causes flooding onto the road and neighbouring properties at times of heavy rain;
- The application is contrary to the Local Plan policies SS1, SP17, DM1, DM15, DM30.

#### **Ulcombe Parish Council (Neighbouring Parish Council)**

5.02 Ulcombe Parish Council object to this application for the same reasons they objected to the previously refused applications for the same plot. In particular, the following concerns are raised:

- It must be determined whether the applicant is a gypsy or traveller in planning terms;
- Evidence that the applicant is leading a "nomadic habit of life" needs to be provided;
- There is no "unmet or proven need" for gypsy and traveller sites;
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches;
- Existing countryside protection policies should be applied;

- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.

### **Kent Highways**

- 5.03 Comment that this application makes use of an access onto Lenham Road that has previously been implemented without consultation of, or permission from, the KCC Highway Authority. The access has therefore been treated as a new access in the assessment of this application. Further comment as follows:

'Lenham Road is served by a 60mph speed limit so access visibility splays of 203 metres in each direction need to be provided from a 2.4 metre set back. Currently the required visibility is not achievable and as such the highway authority have highway safety concerns relating to the proposed access. Reduced visibility splays may be acceptable if the applicants can demonstrate that actual measured speeds on Lenham Road are less through a week long automated traffic count (ATC) survey. I wish to raise a holding objection to the proposals on behalf of this authority. It may be possible for these objections to be overcome if the applicant can demonstrate actual speeds are lower than the road speed limit and that a commensurate level of visibility can be achieved'.

### **Forestry Commission**

- 5.04 Comment that Ancient Woodland is an irreplaceable habitat. The NPPF (para. 175) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:
- Need for Gypsy sites
  - Supply of Gypsy sites
  - Gypsy Status
  - Personal circumstances
  - Visual and landscape impact
  - Cumulative impacts
  - Siting sustainability
  - Residential amenity
  - Parking and highway safety
  - Area of Ancient Woodland and ecological interests
  - Human Rights and Equality

### **Need for Gypsy sites**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also 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

- 6.03 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 need 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 somewhat 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.
- 6.04 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

### **Supply of Gypsy sites**

- 6.05 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.06 Since 1<sup>st</sup> October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- Permanent/non-personal – 157
  - Permanent/personal – 26
  - Temporary/non-personal – 4
  - Temporary/personal – 37
- 6.07 Therefore a net total of 183 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 4 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 6.08 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). 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 adopted Maidstone Borough Local Plan allocates a number of 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.
- 6.09 The Council's current position is that it can demonstrate a 7.7 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2018.
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate over a 5 year

supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) 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."*

- 6.12 As noted above, the definition 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 PPTS 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.
- 6.13 It should also be noted that the Planning Inspectorate's guidance for what is usually required to validate appeals relating to Gypsy and Traveller sites, includes the provision of family background and travel for work purposes details for over the last 10 years.
- 6.14 The Design & Access Statement submitted in support of the application states that the proposed additional mobile home will be occupied by a family member of the applicant and his girlfriend who is pregnant and now needs a stable base. The Design & Access Statement further states that the family member has been travelling and using the roadside to stop in and has always led a nomadic life and has travelled with the applicant across the country for work in landscaping and horse dealing. The Design & Access Statement states that the applicant and the family member always attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold where they also seek work and deal in horses. The Design & Access Statement states that the family member has no intention of giving up this life but needs his child to be settled.
- 6.15 Whilst the information submitted in support of the Gypsy and Traveller status of the intended occupiers of the proposed mobile home is somewhat lacking in specific details with regards to their previous and intended nomadic habit of life, the plot forms part of an established Gypsy and Traveller site at Martins Gardens and the proposed mobile home is to accommodate a family member of the established occupiers of the site, his girlfriend, and future child. A condition can be imposed on any grant of planning permission to ensure that the proposed mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).

### **Personal circumstances**

- 6.16 Apart from the need to provide a settled base for a family member of the applicant, the family member's pregnant girlfriend and the future baby and to enable the child to be enrolled in main stream school in the future, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside location.



### **Visual and landscape impact**

- 6.17 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.18 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites, including the current application plot, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The current application plot extends into the designated area of Ancient Woodland.
- 6.19 Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value. Policy DM3 (Natural environment) of the Local Plan seeks to ensure that new development protects and enhances the natural environment, including areas of Ancient Woodland.
- 6.20 Guidance set out 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 should not 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 and policy DM15 of the adopted Local Plan.
- 6.21 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally where they are screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.22 Policies SP17 and DM30 of the Local Plan state that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to "*...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads*"; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.23 The plot, in this case, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The development granted on appeal was limited to the front (south-eastern) part of the site, the plot shared access off Lenham Road with the neighbouring plots forming Martins Gardens to the north-east, extensive tree and hedgerow planting was to be retained along the road frontage to Lenham Road and the front part of the south-western side boundary, and existing ponds and trees were retained to the rear (north-western) part of the site.
- 6.24 The originally permitted plot has been significantly extended back (north-westwards) from Lenham Road, extending into the area of land designated as Ancient Woodland on the Policies Map to the adopted Local Plan and resulting in

significant loss of trees and ponds from the woodland area. A new access has been formed into the site off Lenham Road in the south-western corner of the site and the access runs along the south-western side boundary to serve the rear part of the site.

- 6.25 The formation of the new access has resulted in the significant loss of trees and hedgerows from the road frontage and south-western side boundary. Entrance gates with brick piers and splayed walls either side have been constructed to the new access and timber fencing has been erected to the site boundaries, including the front boundary along Lenham Road. When the access gates are open, there are views into the site from the road which incorporates an extensive area of hardstanding.
- 6.26 The general character of Lenham Road in the vicinity of the site is one of a country road fronted by mature trees and hedgerows with open fields behind. The various gypsy and traveller sites in the vicinity of the current application site – both authorised and unauthorised, including the neighbouring sites in Martins Gardens – impact on the character and appearance of the road.
- 6.27 Whilst the neighbouring plots in Martins Gardens to the north-east of The Oaklands are generally well screened from views along Lenham Road by established trees and hedgerows to the road frontage, the former vegetation along the road frontage to the plot at The Oaklands has been totally removed where the new access has been formed and largely removed along the remaining part of the frontage.
- 6.28 The access to the plot at The Oaklands which has been constructed on Lenham Road and the associated gates and brick piers with splayed brick walls either side have a significant and intrusive visual impact on the roadside. Apart from the access, the remaining boundary of the application site fronting Lenham Road is defined by a timber boarded fence set behind what remains of the former more extensive trees and hedgerows to the road frontage. Notwithstanding the presence of the remaining trees and hedgerow to the front boundary, the front boundary timber boarded fencing has an intrusive visual impact in the views along Lenham Road and the visual impact will be more noticeable during the winter months.
- 6.29 The access which has been constructed to Lenham Road and the associated timber gates, brick piers with splayed brick walls either side and timber boarded front boundary fencing, together with the removal of trees and hedgerows to the plot frontage to the road, are visually incongruous and intrusive in the roadside views and have a harmful impact on the rural character of the road and the visual amenity along the road generally. The site forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan and the significant harm to the visual amenities, landscape and rural character of the area is contrary to policies SP17, DM15 and DM30 of the adopted Local Plan.
- 6.30 The current application seeks to address the above concerns. The application shows the extent and depth of the current mobile home plot to be reduced to be more in line with that granted on appeal in 2009 and a 5m wide native species landscaped buffer zone of trees and hedgerows planted to the north-west of the repositioned rear (north-west) boundary line. In addition, the proposed native species landscaped buffer is shown to be continued along the south-western side boundary of the plot to reinstate the trees and hedgerows which previously existed along that boundary.
- 6.31 The current application also shows the existing unauthorised access on Lenham Road, including the gates, brick piers and splayed brick walls either side, to be removed and new hedgerow planting reinstated along the road frontage in its place. New access is to be formed to the plot off the shared accessway serving the five neighbouring plots in Martins Gardens to the north-east as per the development granted on appeal in 2009.

- 6.32 It is considered that the removal and closure of the existing separate access on Lenham Road and the approval and implementation of a robust scheme of native species tree and hedgerow planting to the site frontage on Lenham Road and the south-western (side) and repositioned north-western (rear) boundaries to reinstate the boundary landscaping which previously existed will significantly mitigate the visual impact of the mobile home plot in views along Lenham Road and within the open countryside landscape.
- 6.33 The removal of the existing separate plot access together with a scheme of native species tree and hedgerow planting to provide a landscaped buffer and screening along the repositioned rear (north-western) and side (south-western) boundaries and along the road frontage to Lenham Road, to be secured by planning condition, is considered to address the previous concerns regarding adverse visual harm in roadside views and within this part of the defined Low Weald Landscape of Local Value.
- 6.34 The resulting reduced impact on the visual amenities, landscape and rural character of the area is not considered to raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

### **Cumulative impacts**

- 6.35 The PPTS states that whilst Local Planning Authorities should strictly limit new traveller development in the countryside, where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure. In addition, adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.36 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the five neighbouring plots in Martins Gardens to the north-east of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area, particularly when viewed from Lenham Road in the case of the plots at the south-western end of Martins Gardens. Plots at the north-eastern end of Martins Gardens are viewed from the public footpath running north-west from Lenham Road adjacent to the plot at the north-eastern end of the row of six gypsy sites.
- 6.37 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but with the removal of the existing unauthorised access on Lenham Road and provision of a native species hedgerow to the road frontage to the current plot and the implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer along the north-eastern, north-western and south-western perimeters of the six plots, it is considered that any additional impact will be mitigated.
- 6.38 In the context of the existing authorised development, with the removal of the existing unauthorised access and the implementation of a suitably robust landscaping scheme to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be considered in conflict with this aim of Local Plan Policy DM15.

- 6.39 Given that the current application for one additional mobile home and a touring caravan on the current application plot is relatively modest in relation to the extent of other gypsy and traveller development – both authorised and unauthorised - in the near vicinity, it is not considered that an objection on grounds that the development would overwhelm the local community and services can be pursued.

### **Siting sustainability**

- 6.40 Gypsy and traveller sites will almost inevitably be located in countryside locations, and in this case the site is less than 2km from the edge of Headcorn village (to the south-west of the site) with its local services, amenities and public transport links. Whilst located within part of the open countryside where residents would be reliant on the use of a car, the site is not considered to be so far removed from basic services and public transport links as to warrant a refusal of planning permission on grounds of being unsustainable, particularly given the nature of the development and development in the vicinity generally.

### **Residential amenity**

- 6.41 The site is adjoined to the north-east by neighbouring gypsy and traveller sites in Martins Gardens (Plots 1A, 1B, 2, 3 and 4 Martins Gardens). The application site and the neighbouring gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.
- 6.42 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties on the opposite side of Lenham Road, it is not considered that the use of the current application plot for the stationing of one additional mobile home and one additional touring caravan (two mobile homes and two touring caravans in total) results in any unacceptable unneighbourly impact.
- 6.43 Given the scale of development on the plot, vehicular and pedestrian movements to and from the site via the proposed new access to the plot off the existing shared accessway serving the five neighbouring plots in Martins Gardens to the north-east are not likely to significantly impact on neighbouring property on the opposite side of Lenham Road. No overriding residential amenity issues are considered to be raised in the application.

### **Parking and highway safety**

- 6.44 In the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot, access to and from the plot was to be via the shared accessway serving the neighbouring plots in Martins Gardens as opposed to via the currently unauthorised separate access which has been formed to Lenham Road.
- 6.45 In the current application the existing unauthorised access formed on Lenham Road is to be removed and a new access to the plot formed off the shared accessway serving the five neighbouring plots in Martins Gardens to the north-east. The proposed amended access arrangements to the plot essentially revert to those forming part of the development granted on appeal in 2009. The amended access arrangements address the concerns raised by Kent Highways (see 5.03 above) on the application as originally submitted. It should also be noted that Kent Highways raised no objection to the previous more intensive mobile home development on the plot which was refused planning permission under reference 18/502176/FULL

and highway safety concerns did not form part of the grounds of refusal of the previous application.

- 6.46 Adequate hard surface space is available within the plot for the parking of vehicles associated with the proposed mobile home use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the site in a forward gear.
- 6.47 The level of additional vehicle movements to and from the site resulting from the additional mobile home and additional touring caravan on the plot is not likely to be so significant as to raise any overriding highway safety issues.

#### **Area of Ancient Woodland and ecological interests**

- 6.48 To the rear of the plots at the south-western end of the row of Gypsy and Traveller sites, including the current application plot at The Oaklands, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The current mobile home plot at The Oaklands extends to a greater depth back from Lenham Road than the plot for which planning permission was granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room.
- 6.49 The current extent of the plot back from the Lenham Road frontage extends significantly into the designated area of Ancient Woodland to the rear of the plot and it would appear that a significant number of established trees that formerly existed on the land have been lost over time and the landscape harmed.
- 6.50 The current application shows the depth of the current mobile home plot to be reduced to be more in line with that granted on appeal in 2009 and a 5m wide native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. In addition, the proposed native species landscaped buffer is shown to be continued along the south-western side boundary of the plot which goes some way to reinstating the landscaping buffer to the boundary that previously existed along the boundary.
- 6.51 The significant encroachment of the current mobile home use of the plot into the designated area of Ancient Woodland and the significant loss of trees and soils from the area of Ancient Woodland formed part of the grounds of refusal of the more intensive additional mobile home development of the plot recently refused planning permission under reference 18/502176/FULL. The issue of significant encroachment into the designated area of Ancient Woodland is addressed in the current application and whilst the proposed reduced depth of the current mobile home plot still encroaches into the 15m buffer zone normally required between the proposed development and the Ancient Woodland, this was the case with the original proposals granted on appeal in 2009.
- 6.52 The reduction in the depth of the current plot proposed in the current application will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. As part of the current application a 5m wide native species landscaped buffer of trees and hedgerows is to be planted along the re-positioned rear (north-western) boundary of the plot and the approval of full details and implementation of the landscaping/planting scheme can be secured by planning condition.
- 6.53 The plot is predominantly hardsurfaced and enclosed by close boarded fencing. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site. Any impact on ecological interests at the plot would have already taken place.
- 6.54 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present within the

surrounding area. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.

- 6.55 The implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer along the rear (north-western) boundary of the plot and continuing along the side (south-western) boundary and the Lenham Road frontage of the plot will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home and touring caravan on the current application plot, together with native species landscaping/planting to the rear and side boundaries and the Lenham Road frontage to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

### **Human Rights and Equality**

- 6.56 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.
- 6.57 Apart from the desire to provide a settled base for the applicant's family member's girlfriend who is currently pregnant and to enable the child to be enrolled in main stream school in the future, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside location. The needs of the applicant's family are considered to be outweighed by the visual harm to the countryside landscape in this instance.

## **7. CONCLUSION**

- 7.01 The site, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application reference 18/502176/FULL for the stationing of three additional mobile homes and three additional touring caravans on the plot was refused.
- 7.02 The access which has been constructed to Lenham Road without the benefit of planning permission together with the removal of trees and hedgerows to the plot frontage to the road, is visually incongruous and intrusive in the roadside views and has a harmful impact on the rural character of the road and the visual amenity along the road generally.
- 7.03 The current application shows the existing unauthorised access on Lenham Road, including the gates, brick piers and splayed brick walls either side, to be removed and new hedgerow planting reinstated along the road frontage in its place. New access is to be formed to the plot off the shared accessway serving the five neighbouring plots in Martins Gardens to the north-east as per the development granted on appeal in 2009.

- 7.04 The current extent of the plot back from the Lenham Road frontage extends significantly into the designated area of Ancient Woodland to the rear of the plot and it would appear that a significant number of established trees that formerly existed on the land have been lost over time and the landscape harmed. The remaining area of Ancient Woodland is of poor quality.
- 7.05 The current application shows the depth of the current mobile home plot to be reduced to be more in line with that granted on appeal in 2009 and a 5m wide native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. In addition, the proposed native species landscaped buffer is shown to be continued along the south-western side boundary of the plot which goes some way to reinstating the landscaping that previously existed along the boundary. The issue of significant encroachment into the designated area of Ancient Woodland is addressed in the current application and whilst the proposed reduced depth of the current mobile home plot still encroaches into the 15m buffer zone normally required between the proposed development and the Ancient Woodland, this was the case with the original proposals granted on appeal in 2009.
- 7.06 The current application represents a less intensive development of the plot than that recently refused planning permission under reference 18/502176/FULL. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of the existing unauthorised access and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear (north-western) and side (south-western) boundaries and the Lenham Road frontage of the plot, will not have a significant and unacceptable harmful visual and landscape impact in the locality.
- 7.07 The native species planting proposed to the rear, side and Lenham Road frontage of the plot will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements could be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).
- 7.08 Whilst the supporting information submitted in support of the Gypsy and Traveller status of the intended occupiers of the proposed additional mobile home remains somewhat lacking in specific details with regards to their previous nomadic habit of life, the site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens sites and his girlfriend. A condition can be imposed on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.
- 7.09 The proposed stationing of one mobile home and a touring caravan on the plot is modest in the context of the existing and proposed Gypsy and Traveller development on the neighbouring plots in Martins Gardens. Given the reduction in the scale of additional mobile home development now proposed on the adjoining established plots in Martins Gardens, the reduction in the extent of the current application plot, the removal of the existing unauthorised access, and the implementation of a scheme of native species tree and hedgerow planting to the perimeters of the plot as part of the current proposals which will mitigate against the harm to the area of Ancient Woodland to the rear of the plot which has taken place, provide further screening for the development, and provide ecological/biodiversity enhancements, it is not considered that the current application raises any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan. The grant of planning permission is recommended subject to the conditions set out below.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document);

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/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.

- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site (Plot shown as Oaklands on the submitted Site Location Plan) at any one time, of which no more than two shall be a static caravan or mobile home, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the static caravan or mobile home shall be stationed on the site only in the position shown on the plan (Amended Site Block Plan as Proposed received 09 July 2019) hereby approved;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.

- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.

- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) within 3 months of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the internal layout of the site, including the siting of the additional static caravan, removal of the existing access and associated walls, gates and fencing on Lenham Road, formation of new access off the existing shared access off Lenham Road, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot and along the south-western boundary and Lenham Road frontage including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.

- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.



- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- (5) At the same time as the Site Development Scheme required by condition 4 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for the proposed planting within 5m wide landscape buffer zone to the north-western boundary, and the south-western boundary and the Lenham Road frontage planting for a period of 5 years, the 5 years beginning on the date of the completion of the implementation of the planting as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority;

Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.

- 7) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/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 other than as expressly permitted by this decision;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.

- 8) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site;

Reason: In order to safeguard residential and local amenity generally.