

<b>REFERENCE NO:</b> 19/500271/FULL		
<b>APPLICATION PROPOSAL:</b> Change of use of land for the stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
<b>RECOMMENDATION:</b> Subject to: conditions set out below, and prior completion of a legal agreement to secure head of terms set out below; the Head of Planning and Development BE DELEGATED POWERS TO GRANT PLANNING PERMISSION (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with matters set out in the recommendation and as resolved by the Planning Committee).		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> At 5<sup>th</sup> Dec 2019 committee, Members of the Planning Committee resolved to grant permission for this application, finding it to be acceptable in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; and viability of business, subject to appropriate conditions/informatives.</p> <p>At 5<sup>th</sup> Dec 2019 committee, Members of committee also found the proposal to be acceptable in terms of its potential landscape impact. However, this finding was based, in part, on advice that was subsequently found to be unlawful that the Committee could not require appropriate design details of the lodges to be provided nor exercise planning control over their design, either by deciding whether or not to grant permission, or by the imposition of conditions on any permission.</p> <p>Responding to this error of law, this report now addresses the scale, design and appearance of the caravans and the acceptability of these, and it is advised that suitable conditions can be imposed to secure details so as to properly exercise planning control at this planning application stage, notwithstanding the operation of the Caravan Sites and Control of Development Act 1960. Furthermore, this report assesses the submitted landscaping scheme and details of electric vehicle charging points. With these details secured, this must be considered alongside the previously proposed layout, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points), which Members previously found acceptable.</p> <p>With everything considered, and in accordance with the relevant provisions of the Development Plan and NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that it is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> On 15th July 2020, the High Court: <i>R (Patricia Shave) v MBC v Mr and Mrs P Body [2020] EWHC 1895 (Admin)</i> , quashed the planning permission that was issued on 13th December 2019. This application needs to be reconsidered by the Members of Planning Committee, as outlined in the report below.		
<b>WARD:</b> Marden & Yalding	<b>PARISH COUNCIL:</b> Marden	<b>APPLICANT:</b> Mr & Mrs P Body <b>AGENT:</b> Graham Simpkin
<b>TARGET DECISION DATE:</b> 31/05/21		<b>PUBLICITY EXPIRY DATE:</b> 22/02/21

Attached to this Committee report are the following appendices:

- APPENDIX A:** Planning Committee report for 26<sup>th</sup> November 2020
- APPENDIX B:** Urgent update for 26<sup>th</sup> November 2020 Planning Committee
- APPENDIX C:** Planning Committee report for 28<sup>th</sup> November 2019
- APPENDIX D:** Urgent update for 28<sup>th</sup> November 2019 Planning Committee
- APPENDIX E:** Planning Committee report for 30<sup>th</sup> May 2019
- APPENDIX F:** Urgent update for 30<sup>th</sup> May 2019 Planning Committee
- APPENDIX G:** Planning Committee Minutes for the three Planning Committees referenced

## **MAIN REPORT**

### **1.0 Background information**

1.01 The planning history associated to this application is set out in APPENDIX A (1.0 BACKGROUND INFORMATION).

### **2.0 Up to date position of application**

2.01 In light of the decision being quashed by the High Court, Members are now required to reconsider the application afresh, the legal error about the design of the lodges having been corrected. This report will therefore address this issue of design, and Members should be made aware that there is now proposed the ability to control the design of the caravans in planning terms.

2.02 Since the High Court decision this planning application was reported back to Planning Committee on 26<sup>th</sup> November 2020 (APPENDIX A). At this Committee Members resolved to defer the application for the following reasons (APPENDIX G).

*RESOLVED: That consideration of this application be deferred to seek:*

- Details of the design of the caravans;
- Details of electric vehicle charging points; and
- Detailed landscaping plan.

2.03 The applicant has subsequently submitted the following information:

- Elevations/floor plans of caravans
- Written specification for electric vehicle charging points
- Amended block plan (showing electric vehicle charging point)
- Hard and soft landscaping plan
- Draft Deed of Unilateral Undertaking

2.04 For clarity, the relevant plans/documents for this proposal are:

- Drawing ref: 2763 01 Rev A (received 14.10.19) showing site location plan
- Drawing ref: 04 Rev A (received 12.10.20) showing existing block plan
- Drawing ref: 0397/21/B/1A (received 01.03.21) showing hard & soft landscaping plan
- Drawing ref: 06 Rev A (received 09.04.21) showing proposed caravans
- Drawing ref: 05 Rev H (received 27.01.21) showing proposed layout
- Written specification for electric vehicle charging points (received 27.01.21)
- Written agent statements responding to certain issues (Sept 2019 & Sept 2020)
- Visual Impact Assessment (received 23.10.19)
- Business Plan (received 24.09.19)
- Updated Surface Water Drainage Strategy (ref: 4957\_3731 SWDS – Oct 2019)
- Flood Risk Assessment (ref: 3731 FRA – June 2018)
- Ambiantal Environmental Assessment letter dated 13/02/19
- Design & Access Statement (dated: Jan 2019)
- Ecological Scoping Survey (March 2018)
- Reptile Survey & Bat Tree Assessment (Oct 2018) & GCN Risk Assessment (June 2018)

2.05 This report will focus on the resolved reasons for deferral that Members of the planning Committee made on 26<sup>th</sup> November 2020; and please note that the attached appendices remain relevant in the assessment of this proposal.

### **3.0 Up to date details of policy and other considerations**

- Local Plan (2017): SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM37, DM38
- Marden Neighbourhood Plan (2017-2031)
- Landscape Character Assessment (2012 amended July 2013)
- Maidstone Landscape Capacity Study: Sensitivity Assessment (Jan 2015)
- National Planning Policy Framework & National Planning Practice Guidance
- Natural England Standing Advice
- MHCLG National Design Guide

- 3.01 Please note that the policy/guidance references, as laid out in the attached remain relevant.
- 3.02 On 15<sup>th</sup> July 2020, Maidstone Borough Council resolved to adopt the Marden Neighbourhood Plan and this Plan forms part of the statutory development plan. This adopted Neighbourhood Plan seeks new development (inter alia): To be designed to integrate into their surroundings in the landscape, and contribute positively to the conservation and enhancement of that landscape; to provide a biodiversity net gain; to incorporate appropriate additional landscaping; to respect residential amenity; and to be based upon the principles of sustainable construction.
- 3.03 The MHCLG National Design Guide was first published on 1<sup>st</sup> October 2019 and has been considered in the assessment of this application.

#### 4.0 Consultation responses

- 4.01 The consultation responses in the attached appendices remain relevant in the assessment of this proposal. The following is a summary of the responses received after this application was deferred on 26<sup>th</sup> November 2020.

	<b>RESPONSES RECEIVED AFTER DEFERRAL IN NOV 2020</b>
<b>Local residents</b>	5 representations received raising the following concerns: <ul style="list-style-type: none"> <li>- Flood risk/drainage</li> <li>- Harm to character and appearance of countryside</li> <li>- Represents poor design</li> <li>- Unsustainable location</li> <li>- Highway safety</li> <li>- Residential amenity (including loss of privacy &amp; general noise/disturbance)</li> <li>- Light pollution</li> <li>- There is no site office so potential for future development on site</li> <li>- Unilateral Undertaking is irrelevant</li> <li>- Alleged fallback position no longer exists</li> <li>- Development would set precedent for future development</li> </ul>
<b>Marden Parish Council</b>	<ul style="list-style-type: none"> <li>- Cllrs reviewed additional information and wish their previous comments to be reiterated and recommend refusal.</li> <li>- Information/photos received that area flooded again over past few months.</li> <li>- Design not in keeping or sympathetic with open countryside, contrary to Marden Neighbourhood Plan (MNP) Policy BE1.</li> <li>- Cabins not of sustainable construction and there is no evidence of sustainability on site layout, contrary to MNP Policy BE3.</li> <li>- Landscape scheme is contrary to MNP Policy NE5 as there is no evidence of significant number of native planting.</li> </ul>
<b>Landscape Officer</b>	Submitted landscaping plan generally conforms to Council's landscape guidelines for landscape character area in which site is located.
<b>Biodiversity Officer</b>	Additional info submitted has been reviewed and again advise sufficient information has been provided to determine application. They continue to raise no objection in biodiversity terms (subject to previously recommended conditions) and are satisfied landscaping scheme would both safeguard the ancient woodland and act as enhancement for site's biodiversity.
<b>KCC Flood Risk Officer</b>	Have no further comments to make & refer back to their previous comments.

## **5.0 Landscaping and ecological matters**

- 5.01 Since the application was reported to Planning Committee on 26<sup>th</sup> November 2020, a detailed landscaping plan (as requested by Members of the Planning Committee) has now been submitted. In general terms, the plan shows the retention of the existing front (western) boundary planting and the trees along the southern boundary; there will be additional planting along the 15m buffer to the Ancient Woodland; the boundaries of the site will be enhanced with mixed hedge and tree planting (including Oak); and the hardstanding will be of a permeable asphalt system. The Landscape Officer has reviewed the landscaping plan and is satisfied that it generally conforms to the Council's landscape guidelines for the landscape character area in which the site is located, and no objection has been raised on this matter. It is considered that the submitted landscaping scheme, with its native hedge and tree planting, would allow the proposal to positively integrate into the surrounding landscape.
- 5.02 The Biodiversity Officer has reviewed the additional information submitted since the last Planning Committee, and again advise that sufficient information has been provided to determine the planning application. They also continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions and informative as previously recommended in terms of external lighting, precautionary measures for reptiles and Great Crested Newts, ecological enhancements, and bird breeding). Specific to the submitted landscaping plan, the Biodiversity Officer is satisfied that the scheme would both safeguard the ancient woodland and act as enhancement for the site's biodiversity.
- 5.03 It should also be highlighted again that the application site is more than 80m from the Ancient Woodland to the east of the site; the paddock to the east of the site will be managed by appropriate timber post and rail fencing to deter public access in this area; and the landscaping scheme will create a wildlife corridor around the site allowing good connectivity for wildlife movement.

## **6.0 Landscape impact, layout, scale and design**

### *Landscape impact*

- 6.01 In this respect, paragraphs 6.07 to 6.11 of the committee report presented on 30<sup>th</sup> May 2019 remains relevant and states:

*6.07 - Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

*6.08 - It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.*

*6.09 - To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.*

6.10 - *In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.*

6.11 - *It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.*

6.02 Please note that since Planning Committee on 30<sup>th</sup> May 2019, a detailed landscaping plan has now been submitted (as discussed above).

6.03 The submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is agreed with. The Landscape Officer is also satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis. Furthermore, as set out above, the Landscape Officer raises no objection to the submitted landscaping scheme that will be secured by way of an appropriate condition.

6.04 The amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans (from originally submitted); and by showing a detailed landscaping scheme to further mitigate the visual impact of the development.

#### *Layout*

6.05 The submitted plans show the proposed layout, including the location of the 18 static caravans (and not 20 caravans as previously proposed); the hardstanding/parking; the bin store location; retained and new landscaping; and where external lighting will be positioned. The application site has also been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal.

6.06 One of the reasons for deferral at the 26<sup>th</sup> November 2020 was to seek details of electric vehicle charging points on the site. The amended layout plan (and submitted written specification) now details two such charging points in the visitor parking area. In accordance with Local Plan policy, and in the interests of sustainability, a suitable condition will be imposed to secure this provision.

6.07 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restricts development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road (permeable asphalt system) and the caravan bases. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond. For these reasons, the layout is considered to be acceptable.

6.08 No details of a lighting strategy have been submitted. However, the submitted plans show the location of the external lighting and states that the lighting will be of low level lighting bollards (125mm high). The Environmental Protection Team and the Biodiversity Officer raise no objection on this matter, and there is no reasonable justification to refuse the application on this basis. As previously recommended, in order to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

*Scale and design parameters*

- 6.09 It remains the case that the static caravans proposed will be within the lawful definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960 (as secured by way of recommended condition 2). For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall internal head height being 3.05m.
- 6.10 The sole reason why the previous decision was quashed was because Members were previously advised it was not justified for the local planning authority to seek more design details of the caravans because planning permission was only required for the change of use of the land to station or accommodate them for holiday purposes. The High Court decision found that this advice amounted to an error of law and the Committee should not have been advised that they could not require design details or exercise planning control over the design of proposed caravans.
- 6.11 This single error of law will now be considered. As requested by Members of the Planning Committee on 26<sup>th</sup> November 2020, details of the design of the caravans has now been submitted for consideration. All of the caravans will be of the same design, scale and appearance. Each caravan will have a footprint measuring 6m by 13.5m; and with a pitched roof, the ridge height would stand some 4m in height from ground level. The roofs will be profiled interlocking tile effect roofing (grey in colour); and the external elevations will be of timber-effect horizontal weatherboarding (brown in colour). The external finish of the caravans is considered to be sympathetic and subdued, and in keeping with the rural context of the site; and with the benefit of existing and proposed planting, the caravans would blend into the landscape and would not appear so visually incongruous or dominant from any public vantage point as to warrant refusal.
- 6.12 To safeguard the scale, design and appearance of the caravans, an appropriate condition will be imposed to ensure that the caravans on the site are in accordance with the submitted plans; and that the external materials of each caravan will be submitted to and approved in writing by the local planning authority prior to any caravan being brought onto the site. The agent previously agreed to the submission of details prior to any caravan being brought onto the site.

*Summary*

- 6.13 The Landscape Officer states that extensive, large scale, or visually intrusive development would be inappropriate here; that development should respect local vernacular in scale, density & materials; and that cited specific landscape character attributes should be conserved/enhanced.
- 6.14 It is now understood how many caravans there will be on the site; where they will be located; what scale they will be; and what design and appearance they will be, all of which can be secured by way of appropriate conditions and retained for the lifetime of the development. Furthermore, the submitted landscaping scheme will ensure the retention of the existing hedgerows along the western and southern boundaries of site; the planting of new trees (including Oak); the retention of existing trees (including Oak); and the planting of new mixed native hedgerows. The proposal also conserves the existing field pattern. This would be in accordance with the Council's Landscape Character Area guidelines for the Staplehurst Low Weald Area (44), which advises (inter alia):
- New development should respect local vernacular in scale, density and materials
  - Conserve abundance of oak as dominant species, and plant new oaks within pasture
  - Conserve & enhance hedgerows, ensuring they are correctly managed and gaps replanted
  - Conserve & enhance small scale field pattern and sense of enclosure
  - *Encourage native hedgerows around commercial developments*

6.15 For the reasoning set out in the previous committee reports along with the additional considerations as stated above, the layout, scale and design of the proposal is considered to respect the local vernacular of the area; the positive attributes of this landscape character area would be conserved and enhanced; and it remains the view that the proposal would not appear cramped, prominent or visually intrusive. As such, it is considered that the proposal would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

## **7.0 Other matters**

7.01 Paragraphs 6.03 to 6.11 of APPENDIX A covers the matters of: The viability of the proposal; sustainability in terms of location; highway safety; and Environmental Impact Assessment (EIA) development. These paragraphs remain relevant to the assessment of this application and no objection continues to be raised to the proposal on these matters.

7.02 For clarification purposes, whilst the Highways Officer considered the 'worst case scenario', in terms of permitted development rights on the site, they were very clear that whilst it was a balanced decision: *Holiday lets typically generate fewer vehicle movements than dwellings anyway, and I would not expect the proposed static caravans to generate a significant number of car movements that could be considered to have a severe or detrimental impact on highway safety on Stilebridge Lane or the junctions that serve it. On balance, provided the conditions are attached as agreed, I don't believe we have any further cause to object.*

7.03 The conditions previously suggested by the Highways Authority are still recommended (including restricting touring caravans on the site).

7.04 The issue of residential amenity has been addressed in previous committee reports. However, it should be reiterated that the nearest property to the south of the application site is Ellmacy, which is more than 40m from the south-western corner of the site, and the main garden area for this property is to the south of the house, more than 50m away. There is an annexe building within the curtilage of Ellmacy, approved under 17/503597. The approved plans show that the annexe should be some 15m from the northern boundary of Ellmacy. This building is ancillary accommodation incidental to the main dwelling, and not a separate dwelling, with the occupants sharing some facilities within the main house and the existing garden area. A storage building at Oakhurst, under the prior notification process (18/505576), also has permission to be converted into a single dwelling. This property is separated from the site by Oakhurst itself and would be more than 40m from the application site. To the south of Ellmacy is Stilebridge Barn (more than 70m from the site); the caravans on Stilebridge Lane Caravan Site are more than 120m to the north-east of the site; and no other residential property would be within 200m of the application site. To clarify, Little Tilden Farm (to the south of Oakhurst) is some 225m from the application site. It remains the view that the proposal will not have an unacceptable impact in residential amenity terms

7.05 In terms of flood risk and surface water drainage, the finished floor levels of the caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. KCC as the Lead Local Flood Authority, continue to raise no objection to the proposal, subject to the previously recommended conditions that have been duly recommended; and the Environment Agency has previously raised no objection.

7.06 Representations have been made commenting that the Caravan and Camping Club has suspended the applicant's exempt caravan site status and that this means the 'fallback' position has gone.

- 7.07 In response, reference is again made to paragraph 61 of the High Court decision that covers permitted development rights as a fallback position:

*The Claimant complains that paragraph 6.01\* of the report to the Committee meeting on 30 May 2019 advised members that the site had permitted development rights for use as a camping site for up to 28 days in any year. It is pointed out by the Claimant that this right does not apply to the use of land as a caravan site. But the short answer is that the report did not suggest otherwise. It is impossible to say that the report was misleading, let alone significantly misleading in some way which was material to the decision. Ms. Olley was entirely right not to place any emphasis on this point.*

*\*This is an error - the paragraph being referred to is 6.05 of 30 May committee report*

- 7.08 The representations received from Marden Parish Council and local residents, as a result of the most recent re-consultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission for tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time. Furthermore, any future planning applications for development on the site will be assessed at the time against current policy/guidance. It is also argued that each application should be considered on its own merits; and it is not considered reasonable in this instance to refuse the application on the grounds that it may set a precedent for future development in the area.

## **8.0 Conditions and Heads of Terms**

- 8.01 Paragraph 8.31 of the Maidstone Local Plan states: *In order to prevent the creation of isolated residential uses in rural areas, which would conflict with the aims of sustainable development, a holiday occupancy condition will be attached to any planning permissions.* Such a condition is recommended.

- 8.02 As previously set out in APPENDIX A, the submitted criticisms relating to the imposed holiday occupation condition was rejected by The Honourable Mr Justice Holgate, as set out in paragraphs 59 and 60 of the High Court Decision which state:

*Para 59 - Ms. Olley stated that she was not contending that the condition was legally uncertain. Instead, she maintained that the condition was irrational and the officer's report misled the members about its effect.*

*Para 60 - There is no merit in these arguments. The condition did not need to define "holiday" or duration of stay in order to avoid irrationality or to be otherwise lawful. It is impossible to say that condition 3 fails the third test of validity set out in *Newbury District Council v Secretary of State for the Environment* [1981] AC 578, namely that it is so unreasonable that no reasonable planning authority could have imposed it. The condition makes it clear that no lodge may be occupied as the sole or main residence of the occupier. An occupier must reside wholly or mainly elsewhere. The register provides a suitable mechanism to enable the local authority to check on compliance with the condition and take enforcement action.*

- 8.03 Please note that this holiday occupation condition, and those conditions (and informatives) as previously imposed are still recommended, including the following as resolved by the planning Committee on 5th December 2019:

- Further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include mechanism to effectively record use of the caravans;
- Add condition requiring provision of owl boxes to protect/enhance biodiversity; and
- Add informative reminding applicant/future occupiers this is tourist not permanent residential development and explaining that it cannot be for full time residential occupation.

- 8.04 Furthermore, it remains that conditions are recommended to restrict touring caravans using the site; and to control the scale, design and appearance of the caravans on the site. A condition will also be added to secure the provision of electric vehicle charging points for low-emission plug-in vehicles.

8.05 The applicant has also voluntarily agreed to enter into a legal agreement that removes permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12<sup>th</sup> October 2020. This legal agreement runs with the land and would prevent the use of this land by members of certain recreational organisations (such as the Caravan and Camping Club) without the need for planning permission. This will allow the local planning authority to consider the impacts of any future attempt to extend the caravan site into this area.

## 9.0 Conclusion

9.01 Since the deferral of this application at committee on 30<sup>th</sup> May 2019, the proposal site area has been significantly reduced (with layout, surfacing, and lighting shown); the number of caravans proposed has been reduced from 20 to 18; the submission has addressed the issue of Ancient Woodland protection; a Business Plan has been submitted; the submission includes a landscaping scheme and a Visual Impact Assessment; details of electric vehicle charging points have been submitted; and details of the scale, design and appearance of the caravans have been provided.

9.02 At the 5<sup>th</sup> December 2019 committee, Members of the Planning Committee resolved to grant permission of the application, considering there to be no grounds to object to the proposal in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; the viability of the business, subject to appropriate conditions/informatives. This resolution to grant planning permission is still material and as it stands, there is considered to be no reasonable justification to refuse planning permission. Furthermore, it still remains acceptable to impose a holiday occupancy condition to any permission, preventing use of any unit as a permanent encampment.

9.03 At the 5<sup>th</sup> December 2019 committee, Members of the committee also considered there to be no grounds to object to the proposal in terms of potential landscape impact, but this was based on the advice that it was not justified to seek more design details of the caravans. Addressing this advice, which the High Court found to be erroneous, this report now sets out the scale, design and appearance of the caravans. With these details being secured by way of appropriate conditions, this must be considered alongside the previously proposed layout, the comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points).

9.04 With everything considered, and in accordance with the relevant provisions of the Development Plan and the NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that the proposal is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.

## 10. Recommendation

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the head of terms set out below;

the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION** (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

Heads of Terms:

1. To remove permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12th October 2020.

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 18 caravans, 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;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. The development hereby approved shall only be occupied by caravans of a scale, appearance, and design that are in accordance with drawing ref: 06 Rev A; and prior to any caravan being brought onto the application site, the external materials of each caravan shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details, and shall be in place before being brought onto the site, and maintained as such for the duration of each caravan's time on the site.

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

4. All caravans permitted at the site shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the owners/occupiers of each individually occupied caravan on the site, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the caravan park, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of any of the approved caravans with the relevant contact details subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

Reason: In order to reduce the risk to occupants from flooding.

8. The development hereby approved shall be carried out in accordance with the submitted hard and soft landscaping scheme, as shown on drawing ref: 05 Rev H.

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing and hardstanding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of the site, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 05 Rev H) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No caravans, equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100

year storm) can be accommodated and disposed of at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - a) Measures to shield and direct light from light sources so as to prevent light pollution;
  - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;

- c) Show where external lighting will be installed (in accordance with drawing ref: 05 Rev H)
- d) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:

- (a) Routing of construction and delivery vehicles to and from the site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries, with special provision for the proposed caravans
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management/signage

The development shall be carried out in accordance with the approved details;

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. Prior to the first use of the site as a holiday park, details of owl boxes to be installed within the site (to include manufacturer, location, number and height from ground level) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details, and the owl boxes shall be installed prior to the first use (occupation) of any caravans hereby approved and maintained as such thereafter;

Reason: To protect and enhance biodiversity.

22. The application site shall not be open to touring caravans and motorhomes at any time;

Reason: In the interests of highway safety.

23. Prior to the first occupation of the development hereby approved, there shall be a minimum of two operational electric vehicle charging points on the site for low-emission plug-in vehicles that shall be maintained as such thereafter.

Reason: To promote reduction of CO<sub>2</sub> emissions through use of low emissions vehicles.

24. The development hereby permitted shall be carried out in accordance with the following approved documents/plans references: 06 Rev A received 09/04/21; 05 Rev H received 27/01/21; 0397/21/B/1A received 01/03/21; 04 Rev A received 12.10.20; 2763 01 A received 14/10/19; and Ambient Surface Water Drainage Strategy received 24/10/19;

Reason: For then avoidance of doubt.

Informative(s):

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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:

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>

7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.
8. The applicant/future occupants are reminded that the development permits tourist accommodation only and cannot therefore be used for full time residential occupation. For example, individuals cannot live on the site for 6 months say and then go travelling for 6 months, as essentially this would be their permanent home. Condition 4 requires the caravans to be occupied for bona fide holiday accommodation only and not occupied as a person's sole or main place of residence.
9. Southern Water advise that no new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main. For further advice, please contact Southern Water at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)

Case Officer: Kathryn Altieri

<b>REFERENCE NO:</b> 19/500271/FULL		
<b>APPLICATION PROPOSAL:</b> Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst, Stilebridge Lane, Marden, TN12 9BA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> At 5 <sup>th</sup> Dec 2019 committee, Members of the Planning Committee resolved to grant permission for this application, finding it to be acceptable in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; and viability of business, subject to appropriate conditions/informatives.		
<p>At 5<sup>th</sup> Dec 2019 committee, Members of committee also found the proposal to be acceptable in terms of its potential landscape impact. However this finding was based, in part, on advice that was subsequently found to be unlawful that the Committee could not require appropriate design details of the lodges to be provided nor exercise planning control over their design, either by deciding whether or not to grant permission, or by the imposition of conditions on any permission.</p> <p>Responding to this error of law, this report now addresses the scale and design of the caravans and the acceptability of these, and it is advised that a suitable condition can be imposed to secure details so as to properly exercise planning control at this planning application stage, notwithstanding the operation of the Caravan Sites and Control of Development Act 1960. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points), which Members previously found acceptable.</p> <p>With everything considered, and in accordance with the relevant provisions of the Development Plan and NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that it is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> On 15 <sup>th</sup> July 2020, the High Court: <i>R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)</i> , quashed the planning permission that was issued on 13 <sup>th</sup> December 2019. This application needs to be reconsidered by the Members of Planning Committee, as outlined in the report below.		
<b>WARD:</b> Marden & Yalding	<b>PARISH COUNCIL:</b> Marden	<b>APPLICANT:</b> Mr & Mrs P Body <b>AGENT:</b> Graham Simpkin
<b>TARGET DECISION DATE:</b> 30/11/20		<b>PUBLICITY EXPIRY DATE:</b> 05/11/20

Attached to this Committee report are the following appendices:

<b>APPENDIX A:</b>	Planning Committee report for 5 <sup>th</sup> December 2019
<b>APPENDIX B:</b>	Urgent update for 5 <sup>th</sup> December 2019 Planning Committee
<b>APPENDIX C:</b>	Planning Committee report for 30 <sup>th</sup> May 2019
<b>APPENDIX D:</b>	Urgent update for 30 <sup>th</sup> May 2019 Planning Committee
<b>APPENDIX E:</b>	Planning Committee Minutes for both Committees referenced

## MAIN REPORT

### 1.0 BACKGROUND INFORMATION

- 1.01 This planning application was first presented to Planning Committee on 30<sup>th</sup> May 2019 and at this Committee, Members resolved to defer the application for the reasons as set out in APPENDIX E (published Minutes).

1.02 The applicant subsequently submitted the following information:

- *Amended site location plan reducing the area of the planning unit*
- *Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries*
- *Written statement responding to certain issues raised by Members*
- *Visual Impact Assessment (VIA)*
- *Business Plan*
- *Updated Surface Water Drainage Strategy*

1.03 The application was then reported back to Planning Committee on 5<sup>th</sup> December 2019 and Members resolved to grant planning permission and the decision was issued on 13<sup>th</sup> December 2019.

1.04 On 15<sup>th</sup> July 2020, the High Court Judgement: *R (Patricia Shave) v Maidstone Borough Council v Mr and Mrs P Body [2020] EWHC 1895 (Admin)*, quashed this decision. Paragraph 66 of the High Court decision states:

*The claim is allowed but only on the single legal error I have identified as to the power of the planning authority to control design. I reject all the other grounds advanced. The upshot is that the grant of planning permission dated 13<sup>th</sup> Dec 2019 must be quashed.*

1.05 The 'single legal error', is in terms of design and is discussed in paragraphs 39-55 of the High Court decision. Of particular note:

*Para 44 - It is plain that there was some concern within the Planning Committee about the details of the design. At the meeting on 30 May 2019 the members resolved to defer their consideration of the application, so that details not only of the "actual layout" but also of the "scale and design parameters" could be obtained. The only information on that subject which was provided in the officer's report to the committee's meeting on 5 December 2019 was summarised in paragraphs 3.05 and 3.06 (quoted in paragraph 17 above). The members were told:-*

- (i) Maximum size of each lodge, reflecting the definition in s.13 of Caravan Sites Act 1968;*
- (ii) That it was not justified for the planning authority to seek more details of the lodges because planning permission was only required for the change of use of the land to station or accommodate the lodges for holiday purposes; and*
- (iii) That planning permission would be required for any additions to the lodges as defined in (i) above, for example, decking or verandas.*

*Paras 45 & 46 - Points (i) and (iii) had previously been set out in paragraph 2.02 of the officer's report to the committee meeting on 30 May 2019 and so plainly would have been taken into account by them when they asked for future information on design. In any event, strictly speaking point (iii) was irrelevant to the application which was before the members, the scope of which was defined by point (i). It was the design of the development the subject of the application about which the members sought more information. It was therefore solely point (ii) which sought to explain why that information was not being provided. In effect, the committee was told that it could not control design beyond the dimensions given in paragraph 3.05 of the officer's report when determining the planning application for the proposed change of use.*

*Para 48 - I have reached the firm conclusion that point (ii) involved an error of law. The nature of the planning application before the council did not prevent the authority from exercising further planning control over the design of the proposed holiday lodges.*

*Para 55 - Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission or by the imposition of conditions on any permission.*

## **2.0 UP TO DATE POSITION OF APPLICATION**

2.01 In light of the decision being quashed by the High Court, Members are now required to reconsider the application afresh, the legal error about the design of the lodges having been corrected. This report will therefore address this issue of design, and Members should be made aware that there is now proposed the ability to control the design of the caravans in planning terms. The report will also assess the previous reasons for deferral (in May 2019) and all other relevant planning matters.

2.02 For clarity, the relevant plans/documents for this proposal are:

- *Drawing ref: 2763 01 Rev A (received 14.10.19) showing reduced area of planning unit*
- *Drawing ref: 04 Rev A (received 12.10.20) showing reduced area of planning unit*
- *Drawing ref: 05 Rev F (received 12.10.20) showing layout of 18 caravans and extension of new planting along southern and northern boundaries*
- *Written agent statements responding to certain issues (Sept 2019 & Sept 2020)*
- *Visual Impact Assessment (received 23.10.19)*
- *Business Plan (received 24.09.19)*
- *Updated Surface Water Drainage Strategy (ref: 4957\_3731 SWDS – Oct 2019)*
- *Flood Risk Assessment (ref: 3731 FRA – June 2018)*
- *Ambiental Environmental Assessment letter dated 13/02/19*
- *Design & Access Statement (dated: Jan 2019)*
- *Ecological Scoping Survey (March 2018)*
- *Reptile Survey and Bat Tree Assessment Report (Oct 2018)*
- *Great Crested Newt Risk Assessment (June 2018)*

2.03 The agent has confirmed the plans are accurate and reflect the location of the existing (retained) access, as well as making clear as to the extent of the site outline. Furthermore, the agent's response to the High Court decision states that the applicant provided references to the intended design of lodges in para 4.4 of D&A Statement, specifically the use of weatherboarding with wood stained finish; and they believe the decision is clear that the design of the lodges can be controlled by condition. The applicant has no objection to placing further control on the design of lodges by seeking details prior to the commencement of works.

## **3.0 PERMITTED DEVELOPMENT RIGHTS**

3.01 Paragraph 61 of the High Court decision states:

*The Claimant complains that paragraph 6.01\* of the report to the Committee meeting on 30 May 2019 advised members that the site had permitted development rights for use as a camping site for up to 28 days in any year. It is pointed out by the Claimant that this right does not apply to the use of land as a caravan site. But the short answer is that the report did not suggest otherwise. It is impossible to say that the report was misleading, let alone significantly misleading in some way which was material to the decision. Ms. Olley was entirely right not to place any emphasis on this point.*

*\*This is an error - the paragraph being referred to is 6.05 of 30<sup>th</sup> May committee report*

## **4.0 CONSULTATION RESPONSES**

4.01 A summary of the original consultation responses can be found in APPENDIX C to this report. The following is a summary of the responses received after this application was deferred in May 2019 and those received following public re-consultation on 15<sup>th</sup> October 2020. Responses will be discussed in more detail further on in this report where considered necessary.

	<b>RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019</b>	<b>RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION</b>
<b>Local residents</b>	<p>10 received raising concerns over:</p> <ul style="list-style-type: none"> <li>- Impact upon character of area</li> <li>- Flood risk</li> <li>- Surface water/foul sewage disposal</li> <li>- Inaccuracy of submitted plans</li> <li>- Validity of submitted Business Plan</li> <li>- Location not appropriate for proposed use/no demand for tourist use here</li> <li>- Potential development to east half of site</li> <li>- Site to be used as permanent residential</li> <li>- Highway safety/traffic generation</li> <li>- Biodiversity impacts</li> </ul>	<p>15 received raising concerns over:</p> <ul style="list-style-type: none"> <li>- Site not used by touring caravans</li> <li>- Highway safety/traffic generation</li> <li>- Flood risk/foul water disposal</li> <li>- Visual/landscape harm (inc. design)</li> <li>- No requirement for development</li> <li>- Impact on residential amenity</li> <li>- Site to be used as permanent residential</li> <li>- Unsustainable development</li> <li>- Biodiversity impacts</li> <li>- No employment benefit</li> <li>- Should be refused due to HC decision</li> <li>- Inaccurate plans</li> <li>- Impact: Ancient Woodland &amp; SSSI</li> </ul>

	<b>RESPONSES RECEIVED AFTER DEFERRAL IN MAY 2019</b>	<b>RESPONSES RECEIVED AFTER OCT 2020 RECONSULTATION</b>
<b>Cllr Burton</b>	No further comments received.	No further comments received.
<b>Marden Parish Council</b>	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> <li>- Residents expressed concern relating to water run-off/flooding risk</li> <li>- Site in flood zone ½, on narrow country lane known to flood</li> <li>- Business Plan does not appear robust to support application</li> <li>- Development contrary to DM38</li> </ul>	<p>Wish for application to be refused as:</p> <ul style="list-style-type: none"> <li>- Local residents express concern relating to water run-off and flooding risk – Site is in flood zone 2.</li> <li>- Site entrance on narrow country lane and known to flood.</li> <li>- Business Plan not robust to support development – contrary to Policy DM38.</li> </ul>
<b>KCC Highways</b>	Has no further comment to make.	<p>Resident concerns over perceived use of site is acknowledged. However, we must assume existing worst case scenario, and feasibly site could be at maximum capacity under its license tomorrow and that would be perfectly permissible. We could not realistically sustain objection on anecdotal evidence of site being rarely used. In any case, holiday lets typically generate fewer vehicle movements than dwellings, and I would not expect proposal to generate significant number of car movements that could be considered to have severe or detrimental impact on highway safety on Stilebridge Lane or junctions that serve it. On balance I do not believe we have any further cause to object.</p>
<b>Env Agency</b>	Has no further comment to make.	Has no further comment to make.
<b>Env Protect Team</b>	Has no further comment to make.	Continue to raise no objection.
<b>KCC SUDS</b>	Raise no objection subject to previously recommended conditions.	Has no further comment to make.
<b>Landscape Officer</b>	Raise no objection.	<p>Original comments remain unchanged. In terms of JR, issues relating to design matters are not something normally commented on except in relation to visual/landscape character. In that context, I can only reiterate that extensive, large scale or visually intrusive</p>

		development would be inappropriate; development should respect local vernacular in scale, density & materials; & cited specific landscape character attributes should be conserved/enhanced.
<b>Biodiversity Officer</b>	Advises sufficient info has been provided to determine application.	Previous response remains relevant and has no further comment to make.
<b>Natural England</b>	Continues to raise no objection.	Continues to raise no objection.
<b>Agriculture Advisor</b>	Has no further comment to make.	No further comments received.
<b>Southern Water</b>	Previous comments remain unchanged and valid – No objection raised.	Previous comments remain unchanged and valid – No objection raised.
<b>Kent Police</b>	Extended planting zone & new native hedgerow will offer additional defensive planting once established – Previous comments remained valid.	Has no additional comment to make.
<b>Upper Medway Internal Drainage Board</b>		No representations received.
<b>Scottish Gas</b>		No representations received.
<b>UK Power Networks</b>		Raise no objection.

## 5.0 LANDSCAPE IMPACT, LAYOUT, SCALE AND DESIGN

### Landscape impact

- 5.01 In this respect, paragraphs 6.07 to 6.11 of the committee report presented on 30<sup>th</sup> May 2019 remains relevant and states:

6.07 - *Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.*

6.08 - *It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.*

6.09 - *To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.*

6.10 - *In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.*

6.11 - *It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.*

- 5.02 The submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is agreed with. The Landscape Officer is also satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 5.03 Furthermore, the Landscape Officer commented on the amended plans in November 2019 that: *Proposed soft landscaping is an improvement on original scheme with introduction of landscaped & extended native buffer to Ancient Woodland & new native hedgerow planting.* The proposed landscaping remains unchanged and will be secured by way of condition. In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.

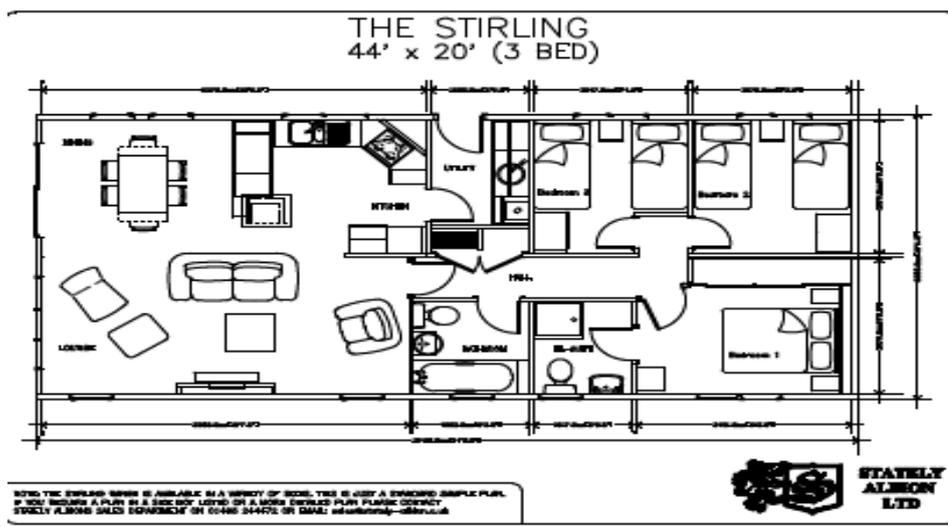
#### Layout

- 5.04 The submitted plans show the proposed layout, including the location of the 18 static caravans (and not 20 caravans as previously proposed); the hardstanding/parking; the bin store location; retained and new landscaping; and where external lighting will be positioned. The application site has also been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal.
- 5.05 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m away). For these reasons, the layout is considered to be acceptable.
- 5.06 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). The Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this basis. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

#### Scale and design parameters

- 5.07 It remains the case that the static caravans proposed will be within the lawful definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall internal head height being 3.05m.

- 5.08 The sole reason why the previous decision was quashed was because Members were previously advised it was not justified for the local planning authority to seek more design details of the caravans because planning permission was only required for the change of use of the land to station or accommodate them for holiday purposes. The High Court decision found that this advice amounted to an error of law and the Committee should not have been advised that they could not require design details or exercise planning control over the design of proposed caravans.
- 5.09 This single error of law will now be considered. The applicant has chosen not to submit specific design details of each caravan at this stage, as such details are unknown to them. Indeed, for example five of the caravans will be sold to private owners who will reasonably want to select their own caravans. Notwithstanding this, the agent has submitted an **indicative** caravan layout (relating to a 3-bed 'Stirling Lodge (measuring 13.4m x 6.1m); and a 3D drawing of a 2-bed 'Stirling Lodge' (measuring 11.5m x 6.1m), to give an idea of the design, scale and appearance of the caravans. This detail is shown below. Furthermore, in general terms the agent has confirmed that all caravans will be clad in weatherboarding with a wood stained finish. This choice of external finish is considered to be traditional and subdued, and in keeping with the rural context of the site; and with the benefit of existing and proposed planting, the caravans would blend into the landscape and would not appear so visually incongruous or dominant from any public vantage point as to warrant refusal.



- 5.10 To safeguard the scale and appearance of the caravans, in terms of securing the weatherboarding cladding (and appropriate finish), an appropriate condition will be imposed; and this is agreeable to the applicant. This is considered to be an acceptable approach, and in line with the High Court decision where it states:

*Para 53 - Mr. Atkinson referred to Esdell Caravan Parks Limited v Hemel Hempstead Rural District Council [1966] 1 QB 895 for the analysis by the Court of Appeal of the overlapping nature of the controls available under planning legislation and the 1960 Act. But there is no authority, nor is there anything in the legislation, to support the proposition that design (other than overall dimensions) cannot be taken into account and controlled when determining an application for planning permission to allow land to be used for the stationing of "caravans", whether by refusing it **or by granting it subject to the imposition of conditions on the permission.***

*Para 55 - Accordingly, it was an error of law for the Committee to be advised that the planning authority could not require appropriate design details to be provided, and so could not exercise planning controls in relation to the design of the lodges, by deciding whether or not to grant permission **or by the imposition of conditions on any permission.***

#### Summary

- 5.11 The Landscape Officer reiterates that extensive, large scale, or visually intrusive development would be inappropriate here; that development should respect local vernacular in scale, density & materials; and that cited specific landscape character attributes should be conserved/enhanced.

- 5.12 It is understood how many caravans there will be on the site; where they will be located; and what scale they will be. It is also known that the caravans will be clad in weatherboard with a timber stain, and that this appearance can be secured by way of an appropriate condition and retained for the lifetime of the development. Furthermore, the recommended landscaping condition will ensure the retention of the existing hedgerows along the western and southern boundaries of site; the planting of new trees (including Oak); the retention of existing trees (including Oak); and the planting of new mixed native hedgerows. The proposal also conserves the existing field pattern. This would be in accordance with the Council's Landscape Character Area guidelines for the Staplehurst Low Weald Area (44), which advises (inter alia):

- *New development should respect local vernacular in scale, density and materials*
- *Conserve abundance of oak as dominant species, and plant new oaks within pasture*
- *Conserve & enhance hedgerows, ensuring they are correctly managed and gaps replanted*
- *Conserve & enhance small scale field pattern and sense of enclosure*
- *Encourage native hedgerows around commercial developments*

- 5.13 For the reasoning set out in the 30<sup>th</sup> May 2019 committee report along with the additional considerations as stated above, the layout, scale and design of the proposal is considered to respect the local vernacular of the area; the positive attributes of this landscape character area would be conserved and enhanced; and it remains the view that the proposal would not appear cramped, prominent or visually intrusive. As such, it is considered that the proposal would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

## **6.0 OTHER MATTERS STILL RELEVANT**

### Further details of landscaping and ecological enhancements

- 6.01 As set out in the committee report for 30<sup>th</sup> May 2019 committee, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in

terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).

- 6.02 As well as the already proposed additional planting along the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the application, and it has extended the area of new planting along the southern boundary of the site. The now removed paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal also continues to include the retention of the mature Oak trees close to the southern boundary, and the recommended landscaping condition will help secure their retention. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Viability of proposal

- 6.03 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
  - 13 caravans will be owned and operated as hire fleet by site owner
  - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
  - Layout will be in accordance with fire regulations and site licencing
  - In terms of marketing and managing, site owners will be assisted by Hoseasons
  - Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025
  - Holiday parks had strong years of trading given improvements in wider economy
- 6.04 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 6.05 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to help the rural economy (be it for individuals or larger businesses where other staff are employed), including holiday caravan sites (subject to certain criteria); and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.

Sustainability in terms of location

6.06 Paragraph 3.16 of the 5<sup>th</sup> December 2019 Committee report stated:

*The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.*

6.07 The view remains that the proposal is not objectionable on location grounds; and for reference, the submitted criticisms of this matter was rejected by The Honourable Mr Justice Holgate and relevant references to the High Court decision are set out:

*Paras 34 - The fact that one councillor happened to say during the committee's debate "we haven't looked at the sustainability of this site" would appear to be referable to that person's view on the discussion on that topic which had so far taken place during the meeting. It certainly could not be taken as an indication of any lack of understanding on the part of members about the principles of sustainable development. Nor could it be treated as a valid criticism of the officer's reports, because paragraph 3.16 of the report to the meeting on 5 December 2019 did address sustainability:-*

*"The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do."*

*Para 35 and 36 - Paragraph 40 of the Claimant's skeleton complains that the officers misled members of the committee into thinking that a permanent development could be "sited anywhere in the countryside, whereas policy expects such sites to be adjacent to or well related to a sustainable settlement." That is a most unfair reading of the officer's report. It did not do any such thing. It adequately and fairly summarised the broad effect of the NPPF, including the reference to development sometimes being located "beyond existing settlements", something which the criticism in paragraph 40 of the Claimant's skeleton overlooks. There was no legal requirement for the report to refer also to the types of development which is encouraged in the last sentence of paragraph 84 of the NPPF, "where suitable opportunities exist." Unfortunately, this and other complaints raised typify the excessively legalistic criticism of officer's reports which is deprecated in many of the authorities. Furthermore paragraph 3.16 should not be read in isolation, but in the context of the further information which on 30 May 2019 the committee resolved to seek and which was subsequently provided. Such matters were summarised in paragraph 3.14 of the officer's report to the meeting on 5 December 2019. Sustainability takes into account the nature of the development proposed.*

*Paras 37 - There is no merit at all in the complaint that the officer's report was inconsistent with the officer's delegated decision to refuse permission on 6 December 2019 for an application at Romany Stables at another location off Stilebridge Lane for permission to expand a traveller site, on the basis that that location was not sustainable. In her oral submissions Ms. Olley said that she was not trying to rely on the consistency principle in North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137, yet that is precisely what paragraph 40 of her skeleton alleged. If that was not the point, it is difficult to see what other legal error could have been pursued. The short point is that the Romany Stable proposal was for a form of permanent residential occupation and the report stated that the location would have been treated as being sufficiently sustainable if the intended occupants had had "gypsy and traveller status", but it was determined that they did not. This was not a comparable set of circumstances engaging the consistency principle.*

*Para 38 - For all these reasons the complaints in relation to the treatment of sustainability must be rejected.*

Highway safety

6.08 The submission has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 from that originally submitted. The Highways Authority has reviewed the new information, considered what is possible in terms of permitted development rights, and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.

6.09 It should be noted here that paragraph 65 of the High Court decision states:

*Although, it forms no part of the challenge, or indeed my decision, I have also noted paragraph 6.13 of the officer's report to the meeting on 5 December 2019. The highways authority considered that a significant factor in favour of the proposal was that it was for lodges in situ and so there would no longer be touring caravans going to and from the site. This reflects a point relied upon by the developer in the Design Access and Planning Statement. The highway authority envisaged that a condition would be imposed to ensure that the "caravans" to be stationed on site would exclude the "touring" variety and be restricted to lodges. So far as I can see that was not reflected in the permission granted and so the quashing of the decision will enable the control of that aspect to be considered as well.*

6.10 At Planning Committee on 5<sup>th</sup> December 2019, it was resolved to delete such a condition given the reduction of the red line boundary to the application site. On reflection, restricting touring caravans on the site is considered to be in the interests of highway safety.

Environmental Impact Assessment (EIA) development

6.11 The proposal falls within Schedule 2 of the EIA Regulations 2017. As previously confirmed, a Screening Opinion has been adopted on behalf of Maidstone Borough Council on 3<sup>rd</sup> December 2019 and an EIA is not required for the development. The submitted criticisms surrounding this issue were rejected by The Honourable Mr Justice Holgate and relevant references in the High Court decision are set out:

*Para 23 - On 3 December 2019 duly authorised officers issued a screening opinion that the harm from the proposal "is considered to be localised and... therefore... the development is not so significant or wide ranging as to warrant an ES". Ms. Olley confirmed that the Claimant does not challenge the legality of that opinion or suggest that there has been any breach of the 2017 Regulations. The fact that the negative screening opinion was not issued until 3 December 2019 does not give rise to any error of law.*

*Para 24 - Ms. Olley drew attention to paragraph 6.27 of the officer's report in May 2019, which stated that "the proposal is not Environmental Impact Assessment development." She pointed out that no screening opinion had been issued at that stage, but accepted that that statement in the officer's report did not vitiate MBC's decisions in December 2019 to grant planning permission. The key point is that the requirements of the 2017 Regulations for a lawful screening decision to be made were satisfied by 3 December 2019, before the decision to grant planning permission was taken and the decision notice issued.*

*Paras 25 - Ms. Olley pointed to the "urgent update" provided to the Planning Committee for its meeting on 5 December 2019 which stated that a negative screening opinion had been adopted on behalf of MBC. She pointed out that the Council's pre-action protocol response dated 6 January 2020 had incorrectly said that the screening opinion had been put before members, whereas in fact they had been told nothing more than that a negative screening opinion had been issued. But Ms. Olley accepted that there was no legal requirement for the members to be given any details about the screening opinion. This was a delegated decision for officers to take and, as the Claimant accepted, that decision is not open to legal criticism. The error in the letter of 6 January 2020 is unfortunate, but, as Ms. Olley accepts, does not render the grant of permission unlawful. Ultimately, she made, as I understood it, a generalised assertion that there had been a public law error because of the manner in which this aspect had been reported to members. In my judgment it is impossible to say that the members were misled in any relevant, let alone any significant way which could possibly have*

*affected their determination of the application for planning permission, applying the principles set out in [28] below.*

Para 26 - *Ground 1 must be rejected.*

### Miscellaneous

- 6.12 There also remains no objection to the proposal in terms of residential amenity, for the reasons previously set out in the 30<sup>th</sup> May 2019 committee report. In terms of flood risk and surface water drainage, the finished floor levels of the caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority, has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated Oct 2019) which updates the strategy to reflect the proposed layout, and they have no objections to make subject to the previously recommended conditions that have been duly recommended. All other matters addressed in paragraphs 6.25-6.27 of 30<sup>th</sup> May Committee report remain relevant; and to clarify, a condition has been recommended to seek details of the proposed method of foul sewage treatment prior to the occupation of any caravan.
- 6.13 The representations received from Marden Parish Council and local residents, as a result of re-consultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission for tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

## **7.0 CONDITIONS AND HEADS OF TERMS**

- 7.01 The submitted criticisms relating to the imposed holiday occupation condition was rejected by The Honourable Mr Justice Holgate, as set out in paragraphs 59 and 60 of the High Court Decision which state:

*Para 59 - Ms. Olley stated that she was not contending that the condition was legally uncertain. Instead, she maintained that the condition was irrational and the officer's report misled the members about its effect.*

*Para 60 - There is no merit in these arguments. The condition did not need to define "holiday" or duration of stay in order to avoid irrationality or to be otherwise lawful. It is impossible to say that condition 3 fails the third test of validity set out in Newbury District Council v Secretary of State for the Environment [1981] AC 578, namely that it is so unreasonable that no reasonable planning authority could have imposed it. The condition makes it clear that no lodge may be occupied as the sole or main residence of the occupier. An occupier must reside wholly or mainly elsewhere. The register provides a suitable mechanism to enable the local authority to check on compliance with the condition and take enforcement action.*

- 7.02 Please note that this holiday occupation condition, and those conditions (and informatives) as previously imposed are still recommended, including the following as resolved by the planning Committee on 5<sup>th</sup> December 2019:
- *Further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include mechanism to effectively record use of the caravans;*
  - *Add condition requiring provision of owl boxes to protect/enhance biodiversity; and*
  - *Add informative reminding applicant/future occupiers this is tourist not permanent residential development and explaining that it cannot be for full time residential occupation.*
- 7.03 Furthermore, for the reasons set out above, further conditions are also recommended to restrict touring caravans using the site; and to control the design/appearance of the caravans on the site.

- 7.04 The applicant has also voluntarily agreed to enter into a legal agreement that removes permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12<sup>th</sup> October 2020.

## **8.0 CONCLUSION**

- 8.01 Since the deferral of this application at committee on 30<sup>th</sup> May 2019, the proposal site area has been significantly reduced (with layout, surfacing, and lighting shown); the number of caravans proposed has been reduced from 20 to 18; the proposal has shown more landscaping, provided a Visual Impact Assessment, and addressed the issue of Ancient Woodland protection; and a Business Plan has been submitted.
- 8.02 At the 5<sup>th</sup> December 2019 committee, Members of the Planning Committee resolved to grant permission of the application, considering there to be no grounds to object to the proposal in terms of its location; residential amenity; highway safety, flood risk; biodiversity; foul and surface water disposal; Ancient Woodland impact; the viability of the business, subject to appropriate conditions/informatives. This resolution to grant planning permission is still material and as it stands, there is considered to be no reasonable justification to refuse planning permission. Furthermore, it still remains acceptable to impose a holiday occupancy condition to any permission, preventing use of any unit as a permanent encampment.
- 8.03 At the 5<sup>th</sup> December 2019 committee, Members of the committee also considered there to be no grounds to object to the proposal in terms of potential landscape impact, but this was based on the advice that it was not justified for them to seek more design details of the caravans. Addressing this advice, which the High Court found to be erroneous, this report now sets out the scale and design parameters of the caravans and the acceptability of these parameters, and it is advised that a suitable condition can be imposed to secure these details. With these details secured, this must be considered alongside the previously proposed layout, comprehensive landscaping scheme, and the submitted Visual Impact Assessment (that concludes the proposal will have a minimal impact on the landscape from public vantage points) .
- 8.04 With everything considered, and in accordance with the relevant provisions of the Development Plan and the NPPF, it remains the view that the proposal would not result in harm to the appearance of the landscape and the rural character of the countryside hereabouts; and that the proposal is acceptable in terms of all other material planning considerations. A recommendation of approval of this application is therefore made on this basis.

## **8.0 RECOMMENDATION:**

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the head of terms set out below;

the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION** (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

Heads of Terms:

1. To remove permitted development rights under Schedule 2, Part 5, Class C, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), on the 'blue land' as outlined on drawing reference: 04 Rev A received 12<sup>th</sup> October 2020.

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 18 caravans, 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;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. Prior to any caravan being brought onto the application site, the scale, appearance, and design details of each caravan shall be submitted to and approved in writing by the local planning authority. These details shall demonstrate that each caravan meets the legal definition of a caravan, as defined in Section 29 of the Caravan Sites and Control of Development Act 1960; and that each caravan will be timber clad and dark stained. The development hereby approved shall be carried out in accordance with the approved details, and shall be in place before being brought onto the site, and maintained as such for the duration of its time on the site.

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

4. All caravans permitted at the site shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all the owners/occupiers of each individually occupied caravan on the site, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the caravan park, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority ([planningenforcement@maidstone.gov.uk](mailto:planningenforcement@maidstone.gov.uk)) prior to the first occupation of any of the approved caravans with the relevant contact details subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

Reason: In order to reduce the risk to occupants from flooding.

8. In accordance with drawing ref: 05 Rev F, and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 05 Rev F) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No caravans, equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled

waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of the National Planning Policy Framework.

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:

- a) Measures to shield and direct light from light sources so as to prevent light pollution;
- b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
- c) Show where external lighting will be installed (in accordance with drawing ref: 05 Rev F)
- d) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:

- (a) Routing of construction and delivery vehicles to and from the site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries, with special provision for the proposed caravans
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management/signage

The development shall be carried out in accordance with the approved details;

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. Prior to the first use of the site as a holiday park, details of owl boxes to be installed within the site (to include manufacturer, location, number and height from ground level) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the subsequently approved details, and the owl boxes shall be installed prior to the first use (occupation) of any caravans hereby approved and maintained as such thereafter;

Reason: To protect and enhance biodiversity.

22. The application site shall not be open to touring caravans and motorhomes at any time;

Reason: In the interests of highway safety.

23. The development hereby permitted shall be carried out in accordance with the following approved documents/plans references: 05 Rev F and 04 Rev A received 12.10.20; and 2763 01 A received 14/10/19; and Ambiental Surface Water Drainage Strategy received 24/10/19;

Reason: For then avoidance of doubt.

Informative(s):

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.

4. Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOC0), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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:  
<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.
8. The applicant/future occupants are reminded that the development permits tourist accommodation only and cannot therefore be used for full time residential occupation. For example, individuals cannot live on the site for 6 months say and then go travelling for 6 months, as essentially this would be their permanent home. Condition 3 requires the caravans to be occupied for bona fide holiday accommodation only and not occupied as a person's sole or main place of residence.
9. Southern Water advise that no new soakaways, swales, ponds, watercourses, associated attenuation tanks or any other surface water retaining or conveying features should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main. For further advice, please contact Southern Water at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)

Case Officer: Kathryn Altieri

**Item 16, Pages 51-108**

Oakhurst, Stilebridge Lane,  
Marden, TN12 9BA

**PLANNING APPLICATION: 19/500271/FULL**

- KCC Flood and Water Management Team has provided further comments making their final position clear on this planning application. The comments are as follows:

*Since the Judicial review, the LLFA have received an enquiry from nearby residents of whom have raised flood risk concerns to the neighbouring houses from this proposed development. We provided a response on 19 Oct 2020 and we seek to provide further clarification for the LPA and residents.*

*Stilebridge Lane and the surrounding area is a sensitive location because of its inherent risks of flooding. The fields to the West and North have been highlighted to be within flood zones 2 and 3 with parts of flood zone 2 encroaching on to site. In addition to the fluvial flood risk, Stilebridge Lane and the site itself has been flagged to be at "high" risk of surface water flooding, mostly corresponding/ arising from the existing ditches. It is therefore imperative that any development does not exacerbate the existing situation, but this does not preclude proposed development from a flood risk perspective. The Surface Water Drainage Strategy report by Ambiental shows multiple existing ditches alongside Stilebridge Lane and one to the north and south of the site. The directions of flow shown on Figure 3 (Page 6) do not reflect actual ground levels. We would expect that no contributions from the developed area to flow southwards from the development. We indicated this in a response to local residents on the 9 Sept 2020.*

*Apart from this specific detail, the report presented conforms to our standard/requirements for runoff rates for new developments. These drainage issues need consideration on detailed design and should be addressed as further detail on the proposed development is forthcoming.*

*In 2018 we advised for planning conditions to be attached to this application should consent be granted. It is our view that these conditions are still required.*

To summarise, KCC continue to raise no objection to the proposal and the suggested conditions referred to are still included as part of the recommendation.

**THE RECOMMENDATION REMAINS UNCHANGED**

<b>REFERENCE NO:</b> 19/500271/FULL		
<b>PROPOSAL:</b> Change of use of land for stationing of 18 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS:</b> Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> - Councillor Burton has called application in given level of local resident interest		
<b>WARD:</b> Marden	<b>PARISH COUNCIL:</b> Marden	<b>APPLICANT:</b> Mr & Mrs P Body <b>AGENT:</b> Graham Simpkin Planning
<b>TARGET DECISION DATE:</b> 13.01.2020		<b>PUBLICITY EXPIRY DATE:</b> 08.11.19

## MAIN REPORT

### 1.0 BACKGROUND INFORMATION

1.01 This planning application was presented to Planning Committee on 30<sup>th</sup> May 2019 and the original report and urgent update is found in APPENDICES A and B. Members resolved to defer the application for the following reasons (taken from the published minutes):

- *Seek further information to assess the visual impact, the potential level of harm, the details of the mitigation and the benefits arising, this to include:*
- *Details of layout including hard & soft landscaping and associated facilities & lighting;*
- *Details of scale and design parameters;*
- *Details demonstrating both local & longer distance views & how it can be mitigated;*
- *More details in terms of landscaping, including net gain for biodiversity with incorporation of hedgerow trees reflecting Council's Landscape Character Assessment Guidance in proposed mixed native hedgerow along northern boundary of site, extension of Ancient Woodland buffer westward to provide habitat link to pond and ditch network on road frontage and fencing along AW buffer;*
- *Details of lighting strategy; and*
- *Clarification in terms of sustainability (role of rural tourism), economic benefits and business model, including identification of need for this type of use, model for occupation (i.e. whether these would be short-let units managed by site owners) and information about how site and landscape and ecology elements would be managed.*

1.02 The applicant has submitted the following:

- *Amended site location plan reducing the area of the planning unit*
- *Amended layout plan showing proposed caravans and associated works kept to the western (roadside) half of the site. Layout has reduced number of caravans to 18 instead of 20; and it shows an extension of new planting along the southern and northern boundaries*
- *Written statement responding to certain issues raised by Members*
- *Visual Impact Assessment (VIA)*
- *Business Plan*
- *Updated Surface Water Drainage Strategy*

## **2.0 RECONSULTATION RESPONSES**

- 2.01 **Local representations:** 10 further representations received raising concerns over:
- *Impact upon character of area*
  - *Flood risk*
  - *Surface water drainage and foul sewage disposal*
  - *Inaccuracy of submitted plans*
  - *Validity of submitted Business Plan*
  - *Location not appropriate for proposed use/no demand for tourist use here*
  - *Potential development to eastern half of site*
  - *Site will be used as permanent residential*
  - *Highway safety/traffic generation*
  - *Biodiversity impacts*
- 2.02 **Councillor Burton:** No further comments have been received.
- 2.03 **Marden Parish Council:** Has reviewed additional information and still wishes for application to be refused. In summary their further views are:
- *Residents have expressed concern relating to water run-off and flooding risk*
  - *Site is in flood zone 1/2, on narrow country lane known to flood*
  - *Business Plan does not appear sufficiently robust to support application*
  - *Development is contrary to Policy DM38 of Local Plan*
- 2.04 **KCC Highways:** Has no further comment to make.
- 2.05 **Environment Agency:** Has no further comment to make.
- 2.06 **Environmental Protection Team:** No additional comments to make.
- 2.07 **KCC SUDS:** Raise no objection subject to previously recommended conditions.
- 2.08 **Landscape Officer:** Raises no objection.
- 2.09 **Biodiversity Officer:** Has reviewed further information and continues to advise sufficient information has been provided to determine the planning application.
- 2.10 **Natural England:** Continue to raise no objection.
- 2.11 **Agricultural Advisor:** Has no further comment to make.
- 2.12 **Southern Water:** Previous comments remain unchanged and valid.
- 2.13 **Kent Police:** Extended planting zone and new native hedgerow will offer additional defensive planting once established - Previous comments remain valid.

## **3.0 ASSESSMENT**

### Details of layout

- 3.01 The agent has submitted an amended site location plan and proposed block plan that definitively sets out the application site and the proposed layout, including the static caravans; hardstanding/parking; the bin store location; landscaping; and where external lighting will be positioned. The amended layout also shows 18 caravans and not 20 as previously proposed.

- 3.02 As can be seen, the application site has been reduced in size (from 2ha to 1.18ha), with the paddock area to the east no longer part of the proposal's planning unit.
- 3.03 To be clear, any future development outside the red outline would require planning permission. The proposed layout would now restrict development to the front of the site, preventing the sprawl of development across the site and retaining a sense of openness at the rear. The level of hardstanding has been restricted to the access road and the caravan bases, with all parking areas being of grasscrete to further soften the appearance of the development. The layout also provides a significant buffer from the proposal to the Ancient Woodland beyond (over 65m). For these reasons, the layout is considered to be acceptable.
- 3.04 No details of a lighting strategy have been submitted. However, the agent has confirmed the location of the external lighting and stated that it would be of low level lighting bollards (125mm high). With more information submitted, the Environmental Protection Team and the Biodiversity Officer continue to raise no objection on this matter, and there is no reasonable justification to refuse the application on this matter. As previously recommended, and to safeguard the character and appearance of the countryside, as well as to mitigate against the potential adverse effects on bats, specific details of external lighting can be appropriately controlled by way of condition.

Details of scale and design parameters

- 3.05 The additional information that has been submitted confirms that the proposed static caravans would not exceed the definition of a caravan as set out in the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960. To reiterate, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m. Provided the static caravans meet this definition, planning application is only required for the change of use of the land in this respect, and so it is not justified to request further plans/details of the static caravans.
- 3.06 An additional informative will also be imposed reminding the applicant that any additions to the caravans, such as decking and verandas, would take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

Details of landscaping and ecological enhancements

- 3.07 As set out in the original committee report, the Biodiversity Officer has advised that sufficient information has been provided to determine the planning application; and they continue to raise no objection to the proposal in biodiversity terms (subject to appropriate conditions as previously recommended in terms of external lighting, precautionary measures for reptiles and Great Crested Newts, and ecological enhancements).
- 3.08 As well as the already proposed additional planting along in the 15m buffer to the Ancient Woodland, the proposal has now removed the eastern part of the site from the planning unit, and it has extended the area of new planting along the southern boundary of the site. The now left out paddock to the east of the site, and this new planting will be managed by appropriate timber post and rail fencing to deter public access in this area. This not only goes above and beyond what is required to protect the adjacent Ancient Woodland, but creates a wildlife corridor around the boundary

that also extend westwards to provide a habitat link to the pond and ditch network on the road frontage. With the planted buffer zone along the eastern and southern boundaries, the retained front boundary hedge, and the new native hedge along the northern boundary, the connectivity around the whole site for wildlife is a significant enhancement. The proposal will still also include the retention of the mature Oak trees close to the southern boundary; and it is considered reasonable to request a detailed landscaping scheme by way of an appropriate condition. The Landscape Officer is also of the view that the proposed soft landscaping is an improvement on the original scheme.

Further details in terms of visual impact and mitigation

- 3.09 As stated in the original committee report:  
*"The site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed."*
- 3.10 The now submitted Visual Impact Assessment (VIA) concludes that the proposal would have a minimal impact on the landscape from public vantage points, and this conclusion is accepted. The Landscape Officer is satisfied that the VIA is an appropriate level study for this proposal. Whilst some of the landscape details in the VIA are not up to date, as it is not intended to be a full LVIA and only an assessment of public viewpoints, the Landscape Officer considers it to be an acceptable submission on this basis.
- 3.11 In addition, the amended layout further safeguards the visual amenity of the countryside, by keeping the static caravans and associated built works away from the rearmost part of the site, where the land level does rise; by reducing the number of caravans; and by showing a more comprehensive landscaping scheme (as explained above) to further mitigate the visual impact of the development.
- 3.12 With everything considered, it remains the view that the proposal would not appear prominent or visually intrusive, and it would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Viability of proposal and sustainability

- 3.13 Whilst relevant policy and guidance does not require applicants to set out the future commercial viability of such a proposal, key points taken from the submitted Business Plan are as follows:
- 5 caravans will be sold to private owners in order to recoup capital spend
  - 13 caravans will be owned and operated as hire fleet by site owner
  - Caravans to be sold on 50yr leasehold for which there will be annual service charges of £3,000 per caravan (to cover maintenance and management)
  - Layout will be in accordance with fire regulations and site licencing
  - In terms of marketing and managing, site owners will be assisted by Hoseasons

- *Visit Britain believes tourism sector will grow at annual rate of 3.8% through to 2025*
  - *Holiday parks had strong years of trading given improvements in wider economy*
- 3.14 Furthermore, in terms of the local market, the Business Plan argues that within Kent there is an obvious demand for tourist facilities. The proposal site is in proximity to Tunbridge Wells, Tonbridge and Maidstone that all have their own draw; the site is also close enough for visitors to explore the High Weald AONB and the Kent Downs AONB if they so wish; and there is also a wide range of outdoor leisure activities in the locality, such as golf courses; public rights of way; fishing; horse riding facilities etc. The Business Plan also understands there to be limited sites in close proximity to the proposal site that offers high quality self-catering accommodation. The Business Plan then calculates development potential over a 3yr period, and this predicts a capital return on development in 2yrs, with the annual rental income for the site being circa. £375,000 once established by year 3. There is no clear evidence to dispute the findings of the Business Plan and it is considered unreasonable to object to the proposal on these grounds, particularly when applicants are not required in policy terms to set out the future viability of such tourist uses in the countryside.
- 3.15 It should be stressed again that Local Plan policy seeks to support small scale employment opportunities to support the rural economy; and the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by supporting the expansion of existing tourism related businesses in the countryside.
- 3.16 The site is also not considered to be so unsustainable, in terms of its location, given that it is only some 0.5miles from the A229; and the NPPF does state that planning decisions should recognise that sites to meet local business in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The NPPF is also clear that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside, which this proposal is considered to do.

Other matters

- 3.17 The additional information has confirmed the layout of the static caravans, and has seen a reduction in the number of static caravans on the site to 18 (that will still remain in situ). The Highways Authority has reviewed the new information and continues to raise no objection on highway safety grounds, subject to the retention of the shown turning area and the imposition of their previously recommended conditions.
- 3.18 There also remains no objection to the proposal in terms of residential amenity, and in terms of flood risk and surface water drainage; and the finished floor levels of the 4/5 caravans in Flood Zone 2 will still be raised 150mm above surrounding ground levels. To clarify, KCC as the Lead Local Flood Authority has reviewed the amended Surface Water Drainage Strategy Report by 'Ambiental' (dated October 2019 and received 24/10/19), which updates the strategy to reflect the latest proposed block plan, and has no objections to make subject to the previously recommended conditions that have been duly imposed. All other matters raised in the original committee report remain relevant and acceptable.

- 3.19 The representations received from Marden Parish Council and local residents, as a result of reconsultation, have been considered in the assessment of this application. It should be noted here that the proposal has been considered on its own merits, based on the submission details for a tourism use. If approved and there is a reported breach of the permission, then it would be a matter for the Planning Enforcement Team to investigate at that time.

#### **4.0 CONCLUSION**

- 4.01 It is considered that the proposal's location is appropriate, and its scale (in terms of its reduced site area and number of static caravans), is acceptable. The proposal will now also provide further, more comprehensive, landscaping that will benefit both the amenity and biodiversity of the site and the surrounding area. It is still considered that the proposal would not have an unacceptable impact upon the living conditions of local residents; and no objection continues to be raised in terms of highway safety; flood risk; and in terms of Ancient Woodland protection. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. In accordance with Local Plan policy DM38, the proposal would not result in unacceptable loss in amenity of area; and it would be unobtrusively located and well screened by existing and proposed native planting. So, with everything considered, the proposal is still considered to be acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval of this application is therefore made on this basis.

#### **5.0 RECOMMENDATION – GRANT planning permission subject to 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 18 caravans, 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;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

3. The site shall not be open to touring caravans and tents at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority ([planningenforcement@maidstone.gov.uk](mailto:planningenforcement@maidstone.gov.uk)) prior to first occupation

of any of the approved caravans with the relevant contact subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), and except for what is shown on the approved plans, no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures, hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels;

Reason: In order to reduce the risk to occupants from flooding.

8. In accordance with drawing ref: 2763 05 E (received 24/10/19) and prior to the first occupation of any caravan on the site, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species (to include Oak) and size of all new native trees and shrubs to be planted within the 15m buffer zone to the ancient woodland and the extended planting zone as shown on submitted plans;
- b) Retention of existing hedgerows along western and southern boundaries of site;
- c) Retention of existing trees within site as shown on the submitted plans;
- d) Details of a mixed native hedgerow that includes Hazel, to be planted in a double staggered row (45cm between plants in row and 30cm between rows) along the northern boundary of site;
- e) Details of grasscrete and how it would be laid for all of the parking spaces on site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. Prior to the first occupation of any static caravan, all of the fencing (as shown on drawing reference: 2763 05E) shall be erected and retained as such for the duration of the development hereby approved;

Reason: To protect existing trees, new planting, and ancient woodland; and in the interests of biodiversity.

11. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No caravans, equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev D); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

12. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the

risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

13. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework (July 2018).

14. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest and the adjacent Ancient Woodland.

15. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - a) Measures to shield and direct light from light sources so as to prevent light pollution;
  - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
  - c) Show where external lighting will be installed (in accordance with drawing ref: 2763 05 E) so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

16. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries, with special provision for the proposed caravans
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management/signage

The development shall be carried out in accordance with the approved details;

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gates at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: 2763 05 E received 24/10/19 and 2763 01 A received 14/10/19; and Ambiantal Surface Water Drainage Strategy received 24/10/19;

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland, in the interests of highway safety and drainage, and to safeguard the enjoyment of their properties by existing and prospective occupiers.

## INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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: <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
7. The applicant is reminded that any additions to the caravans, such as decking and verandas, would then take the caravans out of the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and planning permission would be required for each structure.

**Item 11, Pages 20-43**

**Oakhurst, Stilebridge Lane,  
Marden, TN12 9BA**

**PLANNING APPLICATION : 19/500271/FULL**

- The proposal falls within Schedule 2 of the Environmental Impact Regulations 2017. A Screening Opinion has been adopted on behalf of Maidstone Borough Council and an Environmental Impact Assessment is not required for the development.
  
- 1 representation has been made by a local resident raising concerns over the following, summarised, issues:
  - Flood risk/drainage/sewage treatment
  - Visual harm it will cause to countryside/cramped form of development
  - Environment Impact Assessment is required
  - Highway safety
  - Application does not demonstrate need for such a use or that it will be viable

These issues have been addressed in the committee report and this urgent update.

**Recommendation remains unchanged**

<b>REFERENCE NO</b> 19/500271/FULL		
<b>APPLICATION PROPOSAL</b> Change of use of land for the stationing of 20 holiday caravans with associated works including laying of hardstanding and bin store.		
<b>ADDRESS</b> Oakhurst Stilebridge Lane Marden Tonbridge Kent TN12 9BA		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> 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.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Councillor Burton has called application in given level of local resident interest.		
<b>WARD</b> Marden	<b>PARISH/TOWN COUNCIL</b> Marden	<b>APPLICANT</b> Mr & Mrs P Body <b>AGENT</b> Graham Simpkin Planning
<b>TARGET DECISION DATE</b> 03/06/19		<b>PUBLICITY EXPIRY DATE</b> 30/01/19

### Relevant planning history

- MA/11/1037 – Keeping of horses & erection of stable block & hay barn - Approved

#### 1.0 Site description

1.01 Oakhurst is a detached residential property located on the eastern side of Stilebridge Lane, close to the junction with Tilden Lane. The proposal site is an area of land to the immediate south of Oakhurst (some 2.3ha in area), with road access into the site from the south-western corner.

1.02 The western (front) part of the proposal site is currently used by the Caravan and Camping Club (its website states that the site can accommodate up to 5 caravans or motorhomes and up to 10 trailer tents or tents). The eastern part has been used for horse grazing. The road side (western) boundary is in Flood Zone 2 and the eastern boundary is adjacent to Ancient Woodland. The River Beult (Site of Special Scientific Interest), is some 335m to the north of the site. For the purposes of the Maidstone Local Plan (2017) the proposal site is within the countryside.

#### 2.0 Proposal

2.01 This application is for the change of use of the land for the stationing of 20 holiday caravans, with associated works including hardstanding and parking. The 20 caravans will be moved on to the site and remain in situ, and so guests will not be towing caravans; and no other caravans, touring caravans, or tent pitches will go on the site. The Caravan Site Licence will deal with all of the health and safety requirements under separate legislation.

- 2.02 The application states that the 20 caravans will fall within the lawful definition of a caravan, under Section 29 of the Caravan Sites and Control of Development Act 1960, and no further plans/details are required in this respect. For reference, a caravan under this definition can be up to 20m in length and 6.8m in width; with the overall height being 3.05m (measured internally from the floor at the lowest level to the ceiling at the highest level). Any additions to the caravans, such as verandas, would then take the caravans out of this definition and planning permission would be required for each structure.

### 3.0 Policy and other considerations

- Maidstone LP: SS1, SP17, SP21, DM1, DM3, DM8, DM30, DM37, DM38
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Natural England Standing Advice
- Maidstone Landscape Character Assessment & Maidstone Landscape Capacity Study: Sensitivity Assessment

### 4.0 Local representations: 15 representations received raising concerns over:

- *Caravans being lived in permanently;*
- *Flood risk/surface water drainage/foul sewage disposal;*
- *Highway safety/traffic generation;*
- *Light pollution/impacts upon ecology*
- *Impact upon trees/ancient woodland*
- *Commercial viability of business/need for such development;*
- *Visual impact;*
- *Not a sustainable location;*
- *Impact upon residential amenity (noise, odours, general disturbance);*
- *Impact upon setting of Grade II listed building (Little Tilden Farm)*
- *Loss of agricultural land*

### 5.0 Consultations

- 5.01 **Councillor Burton:** Wishes to see application reported to Planning Committee if recommendation is for approval;

- 5.02 **Marden Parish Council:** Wish to see application refused but has not requested for it to be reported to Planning Committee. In summary their views are as follows:
- *Introduction of vulnerable usage in Flood Zone 2*
  - *Proposal would result in adverse impact on highway safety*
  - *Would have adverse visual impact on countryside*
  - *Noise and light pollution resulting from use would be detrimental to amenity of the area*

*If minded to approve, Cllrs recommend following conditions:*

- *To prohibit any permanent occupancy;*
- *To provide low level lighting scheme;*
- *Provide further information and mitigation of protected species;*
- *Provide specific and detailed method of foul water disposal;*
- *Provision of landscaping scheme;*
- *Provision of ecology assessment;*
- *Applicant to demonstrate adequate access arrangements and vision splays.*

- 5.03 **KCC Highways:** Raise no objection.

- 5.04 **Environment Agency:** Raise no objection.

- 5.05 **Environmental Protection Team:** Raise no objection in terms of noise, air quality, sewage and land contamination.
- 5.06 **KCC SUDS:** Raise no objection.
- 5.07 **Landscape Officer:** Raise no objection.
- 5.08 **Biodiversity Officer:** Advises sufficient information has been provided to determine planning application.
- 5.09 **Natural England:** Raise no objection.
- 5.10 **Agricultural Advisor:** Raise no objection.
- 5.11 **Southern Water:** Raise no objection.
- 5.12 **Kent Police:** Raise no objection.

## 6.0 Appraisal

### Main issues

- 6.01 Local Plan policy SS1 seeks to support small scale employment opportunities in appropriate locations to support the rural economy; and policy SP21 sets out that the Council is committed to supporting and improving the economy of the borough and providing for the needs of businesses, by (inter alia): *Supporting proposals for expansion of existing economic development premises in the countryside, including tourism related development, provided scale and impact of development is appropriate for its countryside location, in accordance with policy DM37.*
- 6.02 Local Plan policy DM37 also supports the expansion of existing businesses in the rural area provided certain criteria are met; and Local Plan policy DM38 allows for holiday caravan sites in the countryside provided they:
- i. Would not result in unacceptable loss in amenity of area. In particular, impact on nearby properties and appearance of development from public roads will be of importance; and*
- ii. Site would be unobtrusively located and well screened by existing or proposed vegetation and would be landscaped with indigenous species.*
- 6.03 The proposal is also subject to the normal constraints of development in the countryside under the Maidstone Local Plan. Local Plan policy SP17 states that new development in the countryside will not be permitted unless it accords with other policies in the Local Plan, and would not result in harm to the character and appearance of the area or in terms of residential amenity. Local Plan policy DM30 states (inter alia) that new development should maintain, or where possible, enhance the local distinctiveness of an area; and ensure that associated traffic levels are acceptable.
- 6.04 Furthermore, Local Plan policy seeks new development to respect the amenities of occupiers of neighbouring properties; and avoid inappropriate development within areas at risk from flooding (LP policy DM1); and to protect areas of Ancient Woodland from inappropriate development and avoid significant adverse impacts as a result of development. Indeed, policy DM3 relates to how development should protect areas of Ancient Woodland from inappropriate development and to avoid significant adverse impacts as a result of development.
- 6.05 Please note that the proposal site could be used for camping (without restriction of numbers) for 28 days in total of any calendar year without requiring planning permission under Class 4, Part B of the GPDO.

- 6.06 The key issues for this application are considered to be what impacts the proposal would have upon the character and appearance of the area (including Ancient Woodland impacts); its highway safety and residential amenity impacts; flood risk; and what impact it would have upon the adjacent ancient woodland and biodiversity. Other material planning considerations will then also be addressed.

Visual impact

- 6.07 Within the Maidstone Landscape Capacity Study: Sensitivity Assessment, the proposal site is in the Staplehurst Low Weald landscape character area (44) that is considered to be sensitive to change. This assessment also states that development in this area could support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate.
- 6.08 It is accepted that the proposal would change the character of what is an open field. However, the site benefits from a mature, well-established hedgerow to the roadside boundary; the southern boundary also benefits from a well-established hedge and several individual trees; and the eastern (rear) boundary is entirely enclosed by Ancient Woodland. To the north, the site is largely screened by Oakhurst and its associated outbuildings; existing hedgerows; and by more Ancient Woodland and Stilebridge Caravan Park. In general terms, the surrounding road network is also lined with hedges/trees; existing built development provides some screening; and no public footpath comes within 200m of the proposal site. As such, it is considered that views of the proposal would be limited to short range views, particularly when passing the site along Stilebridge Lane; and any medium to long distance views of the development from any other public vantage point would be glimpsed.
- 6.09 To further safeguard the character and appearance of the countryside, a suitable condition will also be imposed to secure the retention of the existing hedgerows along the southern and western boundaries of the site; for the retention of the existing trees within the site, as shown on the submitted plan; for further native planting within the 15m buffer zone to the ancient woodland; and for a mixed native hedge to be planted along the northern boundary of the site.
- 6.10 In accordance with the Maidstone Landscape Capacity Study, the proposal would conserve the existing Oak trees on the site; the landscaping scheme would seek new Oak tree planting; and existing hedgerows would be retained. External lighting could also be appropriately controlled by way of condition.
- 6.11 It is therefore considered that the proposal would not appear prominent or visually intrusive in a landscape that is sensitive to change, and would not result in significant harm to the appearance of the landscape and the rural character of the countryside hereabouts.

Highway safety implications

- 6.12 The Highways Authority has reviewed the application and considered the vehicle movements associated with such uses as permissible, notwithstanding the limitations that the nature of Stilebridge Lane presents.
- 6.13 The Highways Authority states a significant factor in considering the change of use of the site would be to recognise that towing caravans/motorhomes would no longer be coming and going from the site, as the accommodation will already be in situ; and that this can be ensured by way of an appropriate condition. This would leave only private cars using Stilebridge Road in association with the proposal and the Highways Authority confirm that they would have no grounds to object to the application in this respect. There will of course be an initial exception with the caravans coming onto the site, but the Highways Authority is satisfied that the impact of this could be feasibly mitigated by a Site Management Plan.

- 6.14 The Highways Authority has considered the nature of Stilebridge Lane, in terms of available passing widths and forward visibility; and they have also noted that the road is served at both ends by junctions which fall below current highway standards. However, despite the limitations this presents to current road users, the personal injury accident record (which provides KCC's evidence base in such judgements) does not suggest that these issues present an overbearing impact on road safety or that they will be significantly exacerbated by the proposals as they stand. No objection is raised in terms of parking provision.
- 6.15 With everything considered, the Highways Authority raise no objection to the proposal on highway safety grounds subject to the imposition of conditions including for the submission of a Site Management Plan.

Residential amenity

- 6.16 The applicant lives at Oakhurst, the property to the immediate north of the site. The next nearest residential property is Ellmacy. Whilst there is extant planning permission for the erection of an annexe to the north of Ellmacy, the main house is more than 40m from the south-western corner of the site, and the main garden area for this property is to the south of the house, more than 50m away from the proposal site. Beyond this is Stilebridge Barn; the caravans on Stilebridge Lane Caravan Site are some 120m to the north-east of the site; and no other residential property would be within 200m of the site.
- 6.17 When considering the intended use of the site and the separation distances from it and any residential property, the noise generated by the proposal (including vehicle movements to and from the site) will be acceptable in residential amenity terms, and the Environmental Protection Team has also raised no objection in terms of noise. It is also considered that most of the vehicle movements to and from the site would be by private motor vehicles only, coming from the A229 to the north-east of the site and not passing the nearest houses to the site. No objection is therefore raised to the proposal in terms of general noise and disturbance, and there is no reason to believe that odours from the site would create an unacceptable living environment for any local resident.

Flood risk/surface water drainage

- 6.18 The western (front) boundary of the site is within Flood Zone 2; and the proposed layout shows 4/5 of the caravans within this, with the rest of the site being in Flood Zone 1. In accordance with the revised NPPF and its Technical Guidance, sites used for holiday caravans are classified as 'More Vulnerable'. Such development in Flood Zone 2 is acceptable subject to a specific warning and evacuation plan; and subject to the Sequential and Exception Tests being applied. Furthermore, local planning authorities should also ensure that flood risk is not increased elsewhere, and should only consider development in flood risk areas to be appropriate where informed by a site-specific Flood Risk Assessment (FRA).
- 6.19 The applicant has submitted a Flood Risk Assessment (FRA), and a further letter (from Ambiental Environmental Assessment) has provided further flood risk information. The submitted details confirm that the floor levels of the caravans will be raised 150mm above surrounding ground levels, and this can be secured by way of an appropriate condition.
- 6.20 In terms of the Sequential and Exception Tests, whilst no alternative sites have been discussed as part of this application, the Environment Agency has reviewed the submitted details and they are satisfied that the proposal would not pose a risk to property; and that future occupants would remain safe for the development's lifetime without increasing flood risk elsewhere (when allowances for climate change are taken into consideration). Furthermore, the development would provide a small scale employment opportunity to help support the rural economy;

and it must be stressed again that the majority of the site falls within Flood Zone 1, where these tests are not required.

6.21 It is noted that the surrounding access roads to the site are located within Flood Zones 2/3; and with regards to a specific warning and evacuation plan, the application states that the applicant will sign up to the EA Flood Warning/Alert Service. This would ensure that future occupants of the site would be safe and have time to evacuate the site if necessary, avoiding the need of emergency egress and access. Furthermore, the majority of the site falls outside Flood Zones 2/3 and the floor levels of the caravans would be raised as accepted by the Environment Agency, so there is also the potential for future occupants to safely 'sit-out' any flood event.

6.22 The application also includes a Surface Water Drainage Strategy and as the lead local flood authority, KCC have reviewed the application. No objection is raised to the proposal, subject to appropriate pre-commencement conditions requiring a detailed sustainable surface water drainage scheme for the site, and a verification report pertaining to the surface water drainage system. With this all considered, the balanced view is that the proposal is acceptable in flood risk terms.

*Biodiversity and ancient woodland implications*

6.23 The Biodiversity Officer has advised that sufficient information has been provided to determine the planning application and they have raised no objection to the proposal in biodiversity terms. This is subject to appropriate conditions for details to be submitted of any external lighting scheme to mitigate against potential adverse effects on bats; of precautionary measures for reptiles and Great Crested Newts, including habitat manipulation and creating/improving reptile and GCN habitat; and of what ecological enhancements are to be incorporated into the scheme.

6.24 The Biodiversity Officer and the Landscape Officer both highlighted the need to protect the ancient woodland to the east of the proposal site. The submission details show the required 15m buffer-zone that is to be planted with native shrub species. Appropriate conditions can be imposed to ensure this buffer-zone planting is carried out and that public access should be prevented in this area.

*Other matters*

6.25 There is no indication that any agricultural business would be affected by the current proposal. The Agricultural Advisor, having regard to the relatively small extent of the land; its current use; and its likely quality, considers that the proposal would not involve a significant loss of agricultural land in planning policy terms, and so no objection is raised in this respect.

6.26 Foul sewage will be disposed of via a package treatment plant. Southern Water has raised no objection to the proposal; and the Environmental Protection Team also raise no objection in this respect subject to the submission of its details. Natural England has also raised no objection but comment that without appropriate mitigation the proposal could harm the interest features for which the River Beult Site of Special Scientific Interest (SSSI) has been notified. With this considered and in order to mitigate against potential adverse effects in relation to foul sewage disposal, a suitable condition will be imposed requesting further details.

6.27 No objection is raised in terms of refuse storage, air quality, and land contamination; the proposal would not have a harmful impact upon the setting of any listed building, given its scale, nature and the separation distances; and the proposal is not Environmental Impact Assessment development.

6.28 The issues raised by Marden Parish Council, Councillor Burton, and local residents have been considered in the determination of this application. It should also be

noted that potential future breaches of planning would be investigated by the Planning Enforcement team as and when necessary; and the future commercial viability of the proposed business is not a material planning consideration in the assessment of this application.

- 6.29 Please note that the applicant has agreed to the imposition of all of the pre-commencement of works conditions.

## **7.0 Conclusion**

- 7.01 The proposal would not be obtrusive and would not result in an unacceptable loss in the amenity of the area, in terms of its visual impact and its impact upon the living conditions of local residents; and existing landscaping will be retained and the site will be enhanced by further native planting. Furthermore, no objection is raised in terms of highway safety; flood risk; biodiversity; and in terms of Ancient Woodland protection. A holiday occupancy condition will also be attached to any permission, preventing use of any unit as a permanent encampment. As such, 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. A recommendation of approval of this application is therefore made on this basis.

## **8.0 Recommendation - GRANT planning permission subject to 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 20 caravans, 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;

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

3. The site shall not be open to touring caravans and tents at any time;

Reason: To safeguard the character and appearance of the countryside and in the interests of highway safety.

4. All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority;

Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fencing, walling and other boundary treatments shall be erected within or around the site;

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

6. If the use hereby approved ceases, all caravans, buildings, structures,

hardstanding, and equipment brought on to the land, and all works undertaken to it in connection with the use, shall be removed within 2 months of cessation of the use, and the land shall be restored to its condition before the development took place;

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

7. The finished floor level of the caravans shall be no less than 150mm above surrounding ground levels.

Reason: In order to reduce the risk to occupants from flooding.

8. Prior to the first occupation of any caravan on the site, details of a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment (2012) and shall include:
- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;
  - b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);
  - c) Details of how the buffer zone will be delineated to prevent public access;
  - d) The retention of the existing hedgerows along the western and southern boundaries of the site;
  - e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);
  - f) Details of a mixed native hedgerow along the northern boundary of the site.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any caravan. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of a property, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of ancient woodland.

10. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS5837:2012 has been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No caravans, equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas or within the 15m buffer zone from the ancient woodland (as shown on drawing ref: 05 Rev A); and no alterations shall be made to the siting of the barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus

materials have been removed from the site;

Reason: To ensure the protection of existing trees and hedges and to avoid compaction of ground within the 15m buffer zone.

11. The development hereby approved shall not commence until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate of 1.7l/s (unless otherwise agreed with the Local Planning Authority and Lead Local Flood Authority) and without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

12. Prior to the first occupation of any caravan on the site, details of a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, shall be submitted to and approved by the local planning authority. This report shall demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework (July 2018).

13. Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;

Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest.

14. Prior to the first occupation of the caravans hereby approved, details of the external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. These details shall include:
- a) Measures to shield and direct light from the light sources so as to prevent light pollution;
  - b) Identification of those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance to routes used to forage and commute;
  - c) Show where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb bat activity.

The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside and to mitigate against potential adverse effects on bats.

15. Prior to the commencement of the development hereby approved (including site clearance), details of precautionary measures for reptiles and great crested newts (GCN), including habitat manipulation and creating/improving reptile and GCN habitat, shall be submitted to and approved by the local planning authority. The approved details will be implemented prior to the occupation of the caravans and thereafter retained as such thereafter;

Reason: To safeguard protected species.

16. Prior to the first occupation of the caravans hereby approved, details for a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the caravans and all features shall be maintained thereafter.

Reason: In the interests of biodiversity enhancement.

17. Prior to the commencement of the development hereby approved (including site clearance), a Site Management Plan (SMP) shall be submitted to and approved in writing by the local planning authority. The SMP shall include details of:
- (a) Routing of construction and delivery vehicles to and from the site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries, with special provision for the proposed caravans
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management/signage

The development shall be carried out in accordance with the approved details;

Reason: In the interests of highway safety.

18. The vehicle parking spaces and turning facilities as shown shall be permanently retained for parking and turning and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

19. Any gate(s) at the vehicular access to the site must be set back a minimum of 5 metres from the highway boundary;

Reason: In the interests of highway safety.

20. Prior to the first occupation of the caravans hereby approved, the first 5 metres of the vehicle access from the edge of the highway shall be of a bound surface and shall be maintained as such thereafter;

Reason: In the interests of highway safety.

21. The development hereby permitted shall be carried out in accordance with the following approved plan references: Site location plan (01);

Reason: To safeguard the character and appearance of the countryside, in the interests of protecting biodiversity, existing trees and ancient woodland; and to safeguard the enjoyment of their properties by existing and prospective occupiers.

## INFORMATIVES

1. In order to protect future occupants at times of flood risk, the applicant is strongly advised to sign up to the Environment Agency's flood warning service prior to the occupation of any caravan on the site. This can be done via the following link: <https://www.gov.uk/sign-up-for-flood-warnings>
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent and has shown that nesting birds are not present.
3. In terms of lighting and to mitigate against potential adverse effects on bats, the applicant is advised to refer to the Bat Conservation Trust's Bats and Lighting in the UK guidance.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers, it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. The applicant is advised to consult a local Designing Out Crime Officer (DOCO), or suitably qualified security specialist to help design out the opportunity for crime, fear of crime, Anti-Social Behaviour (ASB), nuisance and conflict.
6. 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:

Planning Committee Report  
30<sup>th</sup> May 2019

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

Case Officer: Kathryn Altieri

Item 17, Pages 59-71

Oakhurst, Stilebridge Lane,  
Marden, TN12 9BA

Reference number: 19/500271/FULL

- **Amend condition 4 to read:**

*All caravans permitted at the site shall be occupied for holiday purposes only. No such accommodation shall be occupied as a person's sole or main place of residence. The operators of the caravan park shall maintain an up-to-date register of the names of all owners/occupiers of individual accommodation units on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority **with details of the relevant contact at the operators of the caravan park (name, position, telephone number, email address and postal address) who will keep the register and make it available for inspection submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to first occupation of any of the approved caravans with the relevant contact subsequently kept up to date at all times;***

*Reason: In order to ensure proper control of the use of the holiday units and to prevent the establishment of permanent residency.*

- **Amend condition 8 to read:**

*Prior to the first occupation of any caravan on the site, details of a scheme of **hard and soft** landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, have been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall include:*

- a) Location, species (to include Oak) and size of all new trees and shrubs to be planted;*
- b) Native planting within the 15m buffer zone to the ancient woodland (as shown on drawing ref: 05 Rev A);*
- c) Details of how the buffer zone will be delineated to prevent public access;*
- d) The retention of the existing hedgerows along the western and southern boundaries of the site;*
- e) The retention of the existing trees within the site (as shown on drawing ref: 05 Rev A);*
- f) Details of a mixed native hedgerow along the northern boundary of the site;*
- g) Scaled plan showing the extent and type of hardsurfacing within the site.***

*The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;*

*Reason: To safeguard the character and appearance of the countryside and to safeguard the protection of existing trees and ancient woodland.*

- **Amend condition 13 to read:**

*Prior to the first occupation of any caravan on the site, details of the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, shall be submitted to and approved in writing by the local planning authority. These details shall include the size of individual cess pits and/or septic tanks and/or other treatment systems, and shall also specify exact locations on site plus any pertinent information as to where each system will discharge to;*

*Reason: To safeguard against ground/water course pollution, and to protect the interest features of the River Beult Site of Special Scientific Interest **and the adjacent Ancient Woodland.***

**Recommendation remains unchanged.**

## APPENDIX G.

### PLANNING COMMITTEE MINUTES FOR 19/500271: Oakhurst, Stilebridge Lane

#### 26<sup>th</sup> NOVEMBER 2020

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

In presenting the application, the Senior Planning Officer advised the Committee that whilst not mentioned in the report, it was acknowledged that in July 2020, the Council resolved to adopt the Marden Neighbourhood Development Plan and it now formed part of the statutory Development Plan for the Borough. However, it was considered that the adoption of this document did not alter the recommendation set out in the report.

The Chairman read out statements on behalf of Mrs Shave, an objector, and Councillor Mannington of Marden Parish Council.

The Democratic Services Officer read out a statement on behalf of Graham Simpkin Planning, agent for the applicant.

Councillor D Burton (Visiting Member) addressed the meeting.

**RESOLVED:** That consideration of this application be deferred to seek:

- Details of the design of the caravans;
- Details of electric vehicle charging points; and
- A detailed landscaping plan.

Voting: 11 – For 0 – Against 0 – Abstentions

Note: Councillor Harwood left the meeting before the voting on this application (7.20 p.m.).

#### 30<sup>th</sup> MAY 2019

All Members except Councillors Adkinson, Kimmance, Parfitt-Reid, Spooner and Vizzard stated they had been lobbied. Committee considered report and urgent update report of the Head of Planning and Development.

In presenting the report, the Major Projects Manager advised the Committee that, in addition to the amendments proposed in the urgent update report, he needed to add a drawing that was missed off the approved drawing list and a condition to the effect that notwithstanding the illustrative layout, no caravans will be sited in the approved areas of soft landscaping.

Ms Whittaker, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

**RESOLVED:** That consideration of this application be deferred to: Seek further information to assess visual impact, potential level of harm, details of the mitigation and benefits arising, this to include:

- Details of actual layout of site including hard & soft landscaping & any associated facilities & lighting;
- Details of the scale and design parameters;
- Further detail of demonstrating both local and longer distance views and how these can be mitigated;
- More details in terms of landscaping, including a net gain for biodiversity with incorporation of hedgerow trees reflecting Council's Landscape Character Assessment Guidance in proposed mixed native hedgerow along northern boundary of site, extension of Ancient Woodland buffer westward to provide habitat link to pond and ditch network on Stilebridge Lane frontage and fencing along Ancient Woodland buffer (Chestnut spine);
- Details of lighting strategy; and
- Clarification in terms of sustainability (role of rural tourism), economic benefits and business model, including identification of need for this type of use, model for occupation (for example, whether these would be short-let units managed by the site owners) and info about how site and landscape and ecology elements would be managed.

Voting: 11 – For 1 – Against 1 – Abstention

## **5th DECEMBER 2019**

All Members except Councillors Harwood and Perry stated that they had been lobbied. Committee considered report and urgent update report of the Head of Planning and Development.

In presenting the application, the Development Manager circulated a revised site location plan with an amended red line boundary. He also sought the Committee's agreement to the deletion of recommended condition 3 which had been superseded due to the reduction of the red line boundary. Mr Cooper, an objector, Councillor Mannington of Marden Parish Council, Mr Nicholls, for the applicant, and Councillor D Burton (Visiting Member) addressed the meeting.

During the discussion on the application, the Development Manager advised the Committee that he wished to amend the first line of recommended condition 3 (originally condition 4) to read: *All caravans permitted at the site shall be occupied for bona fide holiday purposes only.*

### **RESOLVED:**

1. Permission be granted subject to conditions and informatives set out in report as amended by Development Manager at meeting with deletion of condition 3 (Touring Caravans and Tents) and;
  - (a) The further amendment of condition 3 (originally condition 4) (Holiday Occupancy) to include a mechanism to effectively record the use of the caravans;
  - (b) An additional condition requiring the provision of owl boxes within the site to protect and enhance biodiversity; and
  - (c) Additional informative reminding applicant/future occupiers that this is a tourist rather than a permanent residential development and explaining that it cannot be for full time residential occupation.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended and additional conditions and the additional informative.

Voting: 7 – For 2 – Against 0 – Abstentions