

REFERENCE NO 21/503223/FULL		
APPLICATION PROPOSAL Retrospective application for siting of 1no. additional mobile home and 1no. additional tourer (resubmission of 20/502133/FULL).		
ADDRESS Oaklands (previously known as 1 Martins Gardens) Lenham Road Headcorn Ashford Kent TN27 9LE		
RECOMMENDATION - GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION a) Members considered an identical planning application in November 2020 which was refused permission on the single issue of the visual impact of the individual separate entrance on to Lenham Road. After considering new evidence it is the officer view that, on the balance of probability the second entrance has been in place for more than 4 years and as a result is immune from planning enforcement action. b) The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots. c) The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality. d) The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition. e) The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175). f) The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.		
REASON FOR ORIGINAL REFERRAL TO COMMITTEE Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to recommend approval, for the reasons at paragraph 5.01.		
WARD Headcorn	PARISH/TOWN COUNCIL Ulcombe	APPLICANT Mr James Cash AGENT L Jennings
TARGET DECISION DATE 27/08/2021		PUBLICITY EXPIRY DATE 29/07/2021

Relevant Planning History

- **Plot 1: History for current application site Oaklands (previously known as 1 Martins Gardens) (most recent decision first).**
- 0.1 20/502133/FULL Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective). Refused 04.12.2020 (committee decision 26.11.2020) for the following reasons *"The separate access constructed onto Lenham Road, with the associated gate and paraphernalia, is visually incongruous, intrusive in the landscape and has a harmful impact on the rural character of the road and visual amenity contrary to policies SP17, DM15 and DM30 of the Maidstone Borough Local Plan 2017"*.
- 0.2 18/506270/FULL Application for one additional mobile home and one additional tourer. (Resubmission of 18/502176/FULL) (Part retrospective) approved 12.08.2019 (committee decision)
- 0.3 18/502176/FULL Proposed siting of 3 additional mobile homes and 3 touring caravans at 1 Martins Gardens. Refused 12.10.2018 for the following reasons:
- 1) *'In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character, appearance and landscape of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018)'.*
 - 2) *'The access constructed to Lenham Road and the associated gates, brick piers and timber boarded front boundary fencing is visually incongruous and intrusive in the roadside views and is harmful to the rural character of the road and the visual amenity along the road generally, contrary to the aims and requirements of policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Borough Local Plan (Adopted October 2017) and Government guidance in the NPPF (2018)'.*
 - 3) *'The intensification of the use of the site for the stationing of mobile homes has resulted in the significant encroachment of the use into a designated area of Ancient Woodland and the significant loss of trees and soils from the area of Ancient Woodland and trees and hedgerows from the frontage to Lenham Road and the front part of the south-western side boundary to the detriment of the visual amenity and landscape of the open countryside location which forms part of Low Weald Landscape of Local Value and the ecological and wildlife interests of the site, contrary to policy DM3 of the Maidstone Borough Local Plan (Adopted 2017) and Government guidance in the NPPF (2018)'.*
- 0.4 MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.
- 0.5 MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

0.6 ENF/10155 (Enforcement notice A) Appeal allowed and enforcement notice quashed 24.07.09. The allowed appeal granted permission for the change of use of the land from a mixed use of woodland and nil use to stationing and residential occupation of caravans, the parking and storage of motor vehicles, the erection of fencing on the site and a new entrance gate at the access onto Lenham Road and the placing on the land of domestic and other paraphernalia all ancillary to the residential occupation of caravans on the land.

0.7 ENF/10155 (Enforcement notice B) Appeal allowed and enforcement notice quashed 24.07.09. The allowed appeal granted permission for operational development comprising the construction of hardsurfacing and engineering operations comprising the infilling of a pond.

- **Recent planning history on adjacent plots**

Plot 1 'Oaklands' is the subject of this report

0.8 The planning history for the application site is provided above.

Plot 2

0.9 1A Martins Gardens - No recent planning applications (Medical reasons have been given)

Plot 3

0.10 1B Martins Gardens - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective). Approved 09.10.2020 (following committee decision 24.09.2020)

0.11 20/505250/SUB Submission of Details to Discharge Condition 4(i) - Site development scheme, (ii) - Scheme approved by local planning authority, (iii) - If appeal in pursuance of (ii) Approved by Secretary of state, (iv) Approved landscape scheme timetable and Condition 5 - Schedule of maintenance subject to 20/502134/FULL. Approved 30.03.2021

Plot 4

0.12 2 Martins Gardens 20/502135/FULL Siting of 2 mobile homes and 2 tourers (Retrospective). Approved 09.10.2020 (following committee decision 24.09.2020).

0.13 20/505251/SUB Submission of Details to Discharge Condition 4 (Site Development Scheme) and Condition 5 (Schedule of Maintenance) Subject to 20/502135/FULL Approved 30.03.2021

Plot 5

0.14 3 Martins Gardens/5 Martins Gardens - No recent planning applications (Medical reasons have been given)

Plot 6

0.15 4 Martins Gardens/6 Martins Gardens - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective). Approved 09.10.2020 (following committee decision 24.09.2020).

0.16 Submission of Details to Discharge Condition 4(i) - Site development scheme, (ii) Scheme approved by local authority, (iii) If appeal is made (ii) scheme approved by the secretary of state, (iv) Landscape scheme timetable and Condition 5 - schedule of maintenance subject to 20/502136/FULL. Approved 30.03.2021

MAIN REPORT

1. SITE DESCRIPTION

- 1.01 The application site is located off the north-western side of Lenham Road and comprises the south-western most plot of a row of Gypsy sites running north-eastwards from the site along Lenham Road. Unlike the five neighbouring plots to the north-east which are accessed from a shared accessway off Lenham Road, the application plot has a road frontage and separate access to Lenham Road. The boundaries of the site are enclosed by timber fencing circa 2 metres in height. The plot access and entrance on to Lenham Road consists of brick piers that are circa 2 metres in height with splayed brick walls either side and timber gates.
- 1.02 Beyond the rear (north-western) part of the site is a group of trees and a pond, there is a line of trees along the south-western side boundary. Beyond the trees and pond to the rear of the site and along the south-western boundary are open fields.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six plots. To the rear of the plots at the south-western end of the row of Gypsy sites, including the rear of the current application plot, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The rear part of the current application plot extends into the designated area of Ancient Woodland.
- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan. The site is also within a KCC Minerals Safeguarding Area.
- 1.05 The 6 plots that make up Martins Gardens are within the parish of Ulcombe. The parish boundary with Headcorn, wraps around the 6 plots running along Lenham Road to the south east and the side boundary of The Oaklands to the south west.
- 1.06 The plot referred to in the current application as Oaklands /1 Martins Gardens benefited from planning permission granted by committee in August 2019 (18/506270/FULL) for one additional mobile home and one additional tourer. This decision was preceded by an allowed appeal in July 2009 under ENF/10155 (Enforcement notice A). The allowed appeal permitted the stationing of 1 static caravan, 1 touring caravan and 1 utility room.

2. PROPOSAL

- 2.01 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The current application seeks the retention of the existing access arrangements and the two existing access points. The applicant has advised that the second entrance is required to enable mobile homes to be transported for off site servicing. This is due to the tight bend on the internal access road. The vehicle carrying the mobile homes enters Oaklands from the internal access road before egress onto Lenham Road through the second entrance.
- 2.02 The current application seeks planning permission for same number of caravans as previously approved (one additional mobile home and one additional touring caravan). The submitted plan shows the additional mobile home and tourer on a slightly different location on the site. A 5 metre wide native species landscaped buffer zone is shown between the caravans and the ancient woodland.

- 2.03 The Planning Statement submitted in support of the application states that the mobile home will be occupied by the applicant's eldest son and his girlfriend who have a small child and now need a stable base.
- 2.04 The Planning Statement further states that although the family member has been travelling and using the roadside to stop in, he now needs a stable base to bring up his child and enable the child to get an education.
- 2.05 The Planning Statement states that travelling gypsies are not accepted in schools as they don't have addresses and without a permanent base for the applicant's family member's girlfriend and child, the child will not be able to be registered anywhere.
- 2.06 The plan below shows the caravans to be removed, retained and the positions of a proposed mobile home and tourer as part of the current application. The previously approved proposal for this site included on the front half of the site, 1 retained mobile, 1 retained utility block and an additional mobile and an additional tourer. The current proposal includes the same number and type of development with the proposed mobile (replacing a mobile removed from the back of the site) and tourer in slightly different locations.

Figure 1: Current application - caravans to be removed, retained caravans and replacement/proposed caravans.



- | | |
|----------------------------|------------------------------|
| 1. Removed existing mobile | 4. Retained existing utility |
| 2. Removed existing mobile | 5. Retained existing mobile |
| 3. Removed existing mobile | 6. Proposed tourer |
| | 7. Proposed mobile |

- 2.07 A planning condition attached to the earlier planning permission (18/506273/FULL) was drafted so that the approval would lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.08 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements the submission was not chased up. The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506273/FULL) is now incapable of implementation. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.
- 2.09 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared.
- 2.10 The condition requires additional detail on the, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5 metre wide landscape buffer zone including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.
- 2.11 At the end of last year members approved permission for the adjacent plots 3, 4 and 6. These permissions were subject to the same type of condition that is described here. As set out earlier in the planning history section of this report (paragraphs 0.11, 0.13 and 0.16) the applicant has subsequently sent in details in relation to these conditions on neighbouring plots and these details have been approved. The implementation of the approved details has been delayed due to Covid restrictions.

3. POLICY AND OTHER CONSIDERATIONS

- a) Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30
- b) National Planning Policy Framework (NPPF 2021)
- c) National Planning Practice Guidance (NPPG)
- d) Planning Policy for Traveller Sites (PPTS) (2015)
- e) Landscape Capacity Study: Sensitivity Assessment (2015)
- f) Landscape Character Assessment (2012 – amended 2013)
- g) Landscape Character Assessment Supplement (2012)
- h) KCC Minerals Plan
- i) Gypsy and Traveller and Travelling Showpeople Accommodation Assessment January 2012
- j) Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- k) Draft Headcorn Neighbourhood Plan (see note below)
NB: The Final Examiner's Report on the Headcorn Neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the neighbourhood plan should not proceed to a local referendum. The neighbourhood plan has since been withdrawn.

4. LOCAL REPRESENTATIONS

Local Residents

4.01 No response from local residents.

5. CONSULTATIONS

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

Ulcombe Parish Council

5.01 Objection. Making the following comments:

- Other planning applications, in which the MBC planning officers have stated that the character of the land had been irrevocably damaged by the work carried out by the applicant at this site are highlighted.
- The harm to the area of local landscape value (Ulcombe Farmlands), pattern of small fields and hedgerows, ancient woodland, and Great Crested Newt habitat is highlighted. The destruction of mature trees, compaction of soil, and alteration of the water table due to large areas of tarmacadam are also mentioned.
- The failure of the applicant to comply with the site delivery scheme condition in relation to application 18/506270/full (and the six related applications are highlighted)
- The Parish Council now understand that the second entrance cannot be enforced, because of the time that has elapsed. The question over planning at the Martins Gardens site has been around since 2009. Comments regarding the destruction of the ancient woodland and habitats have been on the portal as far back as 2015. The removal of the incongruous and intrusive brick entrance has been demanded as far back as 2015 (18/502176/FULL)
- Despite the agent's assertion that evidence regarding the status of the applicant is widely known by the planning department, it does not appear on any of the many applications over the past 11 years.
- When enforcement might have taken place, it has not happened. We would urge the officer to look back over the evidence on this site and refuse planning permission.

Headcorn Parish Council (Neighbouring Parish Council)

5.02 Objection, making the following comments:

- The committee expressed complete dismay that we are faced with further retrospective applications for the above sites. Very similar applications were considered and approved by MBC in August 2019.
- Despite requests, no enforcement action was taken in relation to the site delivery planning condition that was attached to earlier approvals.
- The gypsy/traveller status of the applicant
- Gypsy and Traveler housing need verses supply.
- Development in the Open Countryside and paragraph 25 of the PPTS which states that Local Authorities should strictly limit Traveler site development in open countryside.
- Particular attention drawn to the fact that the area concerned was once 80% ancient woodland and ponds and due regard must be paid to reinstating what has been lost
- Poor social cohesion with the villages settled community with many feeling unable to comment on the situation for fear of reprisals.
- Contrary to SS1, SP17, DM1, DM15, and DM30.
- The Committee wish to see these applications refused and referral to planning committee is required.

Kent Highways

- 5.03 No objection. Recommend informative about highways approvals.

KCC Minerals and Waste Planning Policy Team

- 5.04 No objection.
- 5.05 The site is not within 250 metres of any safeguarded mineral or waste facility, and thus would not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 3013-30.
- 5.06 With regard to land-won minerals safeguarding matters it is the case that the area of the application site is entirely coincident with a safeguarded mineral deposit, that being the Paludina Limestone (a marble that is used as a specialist building stone). The application benefits from exemption criterion (6) of Policy DM 7: Safeguarding Mineral Resources and as result a Minerals Assessment is not required.

6. APPRAISAL

Main issues

Separate site access from Lenham Road.

- 6.01 At the committee meeting on the 24 September 2020 (adjourned till the 1 October 2020) members, considered a report for this retrospective application for the siting of 1 additional mobile home and 1 additional tourer on the application site. The consideration of the application was deferred for the following reasons: *"That consideration of this application be deferred to enable the Officers to investigate the status of the separate access from the application site onto Lenham Road (i.e. is it lawful and immune from enforcement action)"*.
- 6.02 A decision was made at the committee meeting on the 26 November 2020 to refuse planning permission for the following individual reasons: *"The separate access constructed onto Lenham Road, with the associated gate and paraphernalia, is visually incongruous, intrusive in the landscape and has a harmful impact on the rural character of the road and visual amenity contrary to policies SP17, DM15 and DM30 of the Maidstone Borough Local Plan 2017"*.
- 6.03 It is highlighted that in the absence of other reasons for refusal, other matters relating to the application were considered acceptable in November 2020. There has been no material change in circumstances since November 2020 that would justify taking a different position with the current application.
- 6.04 Following the decision to refuse planning permission in November 2020, new evidence has come to light that supports the following statement made by the agent: *"...The entrance has been in situ and used for over 4 years, so it is my view that it is now immune from enforcement. I understand that there are no other issues with the current application so I do feel that it would be unjust to refuse it based on the opposition to the entrance. Therefore, my client would ask that the application is determined as it stands. Should it be refused then the appeal process will be followed"*. The agent at this stage has chosen to resubmit the planning application for the Council to consider, rather than appeal against the refusal of permission.

- 6.05 To be immune from planning enforcement action, the entrance would need to have been present for a continuous period of more than 4 years and the relevant test in these circumstances would be on the 'balance of probability'. With reference to the date of the earlier committee meeting (26 November 2020), the entrance would therefore have to have been constructed before the 26 November 2016 to be immune from planning enforcement action.
- 6.06 The following evidence is now available, with information at a) and b) not available at the time that the application was considered in November 2020:
- a) Prior to the immunity date of the 26 November 2016, application 15/501511/FULL includes comments from a neighbour dated June 2015 that refer to the "recently added" second site entrance.
 - b) Prior to the immunity date of the 26 November 2016, a site photograph was taken in December 2015 by a Kent Messenger photographer. This photo (see below as Figure 2) shows the second entrance in place at that time.
 - c) Entrance present in Google Earth image 05.05.2018 (see below Figure 3)

Figure 2: Site photograph, December 2015 (Kent Messenger).



Figure 3: Aerial photographs (Google Earth) of the application site from 20 April 2015 and 5 May 2018.

Oaklands 20.04.2015

Oaklands 05.05.2018



- 6.07 No evidence has been found that contradicts the statement made by the planning agent in relation to the presence of the entrance for more than 4 years. After assessment of the available evidence in support of the agent's position, it is concluded that the second entrance on the balance of probability has been present for more than 4 years and is therefore immune from enforcement action. Based on this evidence the Council have withdrawn the Enforcement Notice that has served in relation to the access.
- 6.08 With the earlier decision in November 2020 to refuse planning permission on the single ground of the visual impact of the entrance and no material change in other circumstances it should not be necessary to reconsider all of the other aspects of the application. Notwithstanding this, for completeness this assessment is provided below.
- 6.09 The other key issues for consideration relate to the following and these issues are considered in turn below:
- Need for Gypsy sites
 - Supply of Gypsy sites
 - Gypsy Status
 - Personal circumstances
 - Visual and landscape impact
 - Cumulative impacts
 - Design
 - Siting sustainability
 - Residential amenity
 - Parking and highway safety
 - Area of Ancient Woodland and ecological interests
 - Human Rights and Equality

Need for Gypsy sites

- 6.10 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.11 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Figure 4: Need for Gypsy and Traveller Pitches Oct 2011 to March 2031

Period	No. of pitches
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
Total Oct 2011 to March 2031	187

- 6.12 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of

need but each decision must be taken on evidence available at the time of a decision made.

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

Supply of Gypsy sites

- 6.14 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.15 The following table sets out the overall number of pitches which have been granted consent from 1st October 2011, the base date of the assessment, up to 31st March 2021.

Figure 5: Gypsy and Traveller pitch supply Oct 2011 to 31 March 2021

Type of consents	No. pitches
Permanent consent	214
Permanent consent + personal condition	32
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.16 A total of 246 pitches have been granted permanent consent since October 2011 (214+32). These 246 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 6.1 year supply of Gypsy and Traveller sites at the base date of 1st April 2021.
- 6.17 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises *"...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community"*.
- 6.18 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

Gypsy Status

- 6.19 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.20 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

- 6.21 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by a member of the applicant's close family and their partner who have one young child and who need a stable base.
- 6.22 The Planning Statement states the occupant of the caravan who is a member of the applicant's close family has always led a nomadic life and has travelled with the applicant across the country for work in landscaping and horse dealing. The Planning Statement further comments that they always attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold (Gloucestershire) where they also seek work and deal in horses. The occupier of the caravan has no intention of giving up this life but needs his child to be settled.
- 6.23 The plot forms part of an established Gypsy and Traveller site at Martins Gardens and the proposed mobile home is to accommodate a family member of the established occupiers of the site, the partner and a young child. A condition is recommended on any grant of planning permission to ensure that the proposed mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).
- 6.24 The gypsy status of the occupiers of the caravan were accepted as part of the assessment of the earlier application and there has been no change in circumstances. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

Personal circumstances

- 6.25 The current application is submitted to provide a settled base for the applicant's oldest son and his girlfriend who now have one young child and who need a stable base to enable the child to be enrolled in main stream school in the future. The personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

Visual and landscape impact

- 6.26 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.27 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.28 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to "...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads"; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.29 The plot, in this case, benefits from the planning permission granted on appeal on 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins

Gardens to the north-east and south-west. Some of the development on these plots is currently unauthorised.

- 6.30 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.31 The originally permitted plot extends significantly back (north-westwards) from Lenham Road, extending into the area of land designated as Ancient Woodland on the Policies Map to the adopted Local Plan. This resulted in a significant loss of trees and ponds from the woodland area. The applicant in the Planning Statement have said "Any trees that have been lost or fallen has been due to natural deterioration and have not been removed by the applicant for him to live on the site" The applicant also points out that none of the trees in question were the subject of a Tree Preservation Order.
- 6.32 The site forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan and it is considered that the entrance and timber fence results in harm to the visual amenities, landscape and rural character of the area. Notwithstanding this identified harm, the benefits from the current proposal with the removal of the caravans on the northern part of the site and the introduction of a 5m wide native species landscaped buffer zone between the caravans and the ancient woodland outweigh this identified negative visual harm. The proposal does not conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.
- 6.33 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The current application seeks the retention of the existing access arrangements and the two existing access points on to Lenham Road (albeit only one relates to the current application site being considered with the second used to access the other five adjacent plots). The applicant states that the caravans on all 6 plots need to exit through the Oaklands/1 Martins Gardens entrance when leaving the site to be serviced.
- 6.34 Apart from the access, the remaining boundary of the application site fronting Lenham Road is defined by a timber boarded fence set behind what remains of the former more extensive trees and hedgerows to the road frontage. It appears that the fence was installed at the same time as the new entrance and the Council's records also show that this timber boarded fence is likely to be immune from planning enforcement action.
- 6.35 It is accepted that the additional entrance has a visual impact on Lenham Road. As well as the lawfulness of the entrance, this negative visual impact needs to be considered against other factors such as the existing local character and the positive impacts from the proposal (as set out in the conclusion to this report).
- 6.36 It is considered that visual impact of the second entrance is reduced in the context of a number of other existing nearby residential entrances on both sides of Lenham Road.
- 6.37 As shown below Oaklands is the plot within Martins Gardens with the biggest encroachment into designated ancient woodland. As a result of this current situation, the proposals for Oaklands with the removal/relocation of caravans from

the rear part of the site offers the greatest benefit in terms of the area of land being rewilded.

Cumulative impacts

- 6.38 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure.
- 6.39 Adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.40 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the five neighbouring plots in Martins Gardens to the north-east of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area, particularly when viewed from Lenham Road in the case of the plots at the south-western end of Martins Gardens. Plots at the north-eastern end of Martins Gardens are viewed from the public footpath running north-west from Lenham Road adjacent to the plot at the north-eastern end of the row of six gypsy sites.
- 6.41 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but with the implementation of the landscape buffer and removal of caravans any additional impact will be mitigated. The combined cumulative effect in terms of impact on the countryside and landscape would not be in conflict with this aim of Local Plan Policy DM15. The visual impact of the proposed caravans was considered by officers and members in the assessment of the earlier planning application and found to be acceptable.

Design

- 6.42 The assessment below is structured around the categories used to assess proposals in design and access statements which are 'Use', 'Amount', 'Layout', 'Scale', 'Landscaping' and 'Appearance'.

Use

- 6.43 The use of the site and the status of the occupants of the caravans is considered earlier in this statement.

Amount

- 6.44 The current retrospective application involves the siting of 1 additional mobile and 1 additional tourer. The development description is identical to the earlier approval under application 18/506270/FULL and the amount of development is acceptable for this plot.

Layout

- 6.45 The proposed site layout is comparable to the layout previously considered acceptable by officers and members in the assessment of the earlier planning application.

- 6.46 The layout is considered acceptable in terms of the relationship between dwellings, internal circulation space and amenity.

Scale

- 6.47 Whilst slightly raised off the ground, the proposed caravans are single storey. The width can be seen in the plans provided earlier in this statement and in the photograph below. As set out earlier in this report, the scale of the caravan is considered acceptable for the site, especially with the screening that is currently available.

Figure 6: Photograph from the front boundary.



Landscaping

- 6.48 The applicant has submitted written information on landscaping in the Planning Statement referring to the potential provision of Hawthorn, Field Maple, Plum Cherry, Hazel, Blackthorn, Crab Apple, Privet, Dogwood, Rowan, Holly and Spindle. A planning condition is recommended seeking further details of landscaping and a timetable for the implementation of the agreed details.

Appearance

- 6.49 The appearance of the caravan can be seen in the photograph below. With the single storey height and the screening from public views the appearance of the buildings is acceptable and it is not considered reasonable to request alternative external facing materials. If thought necessary by members the painting of the caravan a darker colour could be considered and included as part of a planning condition.

Siting sustainability

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

Residential amenity

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

Parking and highway safety

- 6.55 The current application seeks to retain the existing access arrangements with a separate access provided from the application site on to Lenham Road. This access is considered acceptable in relation to highway safety.
- 6.56 Adequate hard surface space is available within the plot for the parking of vehicles associated with the proposed mobile home use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the site in a forward gear.
- 6.57 The level of additional vehicle movements to and from the site resulting from the additional mobile home and additional touring caravan on the plot is not likely to be so significant as to raise any overriding highway safety issues.
- 6.58 The impact of the development on the local highway network including access and parking arrangements have been considered by KCC as the Local Highways Authority. KCC Highways raise no objection to the planning application.

Area of Ancient Woodland and ecological interests

- 6.59 The land to the rear of the plots at the south-western end of the row of Gypsy and Traveller sites in Martins Gardens, including the rear half of the current plot at The Oaklands, is designated as Ancient Woodland.
- 6.60 The current application involves the removal of three caravans shown as being located in ancient woodland and the depth of the current mobile home plot reduced by around a half with a 5m wide native species landscaped buffer zone planted across the middle of the existing lot to mark the extent of the ancient woodland and to separate the retained and currently proposed caravans from the ancient woodland.
- 6.61 Whilst the proposed reduced depth of the current mobile home plot still encroaches into the 15m buffer zone normally required between the proposed development and the Ancient Woodland, this was the case with the approval considered acceptable by members and officers in terms of the applications considered in 2019. The imposition of the 15 metre buffer would in addition leave little to no developable area on the site.

- 6.62 It is considered that the landscaped 5 metre wide buffer with native species tree and hedgerow planting will provide some mitigation for the harm which has taken place.
- 6.63 The plot is predominantly hardsurfaced and enclosed by close boarded fencing. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site. Any impact on ecological interests at the plot would have already taken place.
- 6.64 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present within the surrounding area. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.

Figure 7: Relationship of the application site to designated Ancient Woodland (Ancient Woodland shown as green hatching)



- 6.65 The implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home and touring caravan on the current application plot, together with native species landscaping/planting to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF.

Human Rights and Equality

- 6.43 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.
- 6.44 Apart from the desire to provide additional mobile home accommodation for a family member of the established occupiers of the site, the partner and a young child, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside location. The needs of the existing family members, including children, in this instance, are considered to outweigh the limited visual harm to the countryside landscape.

7. CONCLUSION

- 7.01 The additional evidence now available shows that on the balance of probability the second entrance has been present for more than 4 years and is therefore immune from planning enforcement action.
- 7.02 The plot, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application (18/506273/FULL) for one additional mobile home and one tourer was approved by members with the decision issued on the 12.08.2019. The current application involves the same number of caravans in a revised layout.
- 7.03 The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.
- 7.04 The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.
- 7.05 The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.
- 7.06 The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).

- 7.07 The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.

8. RECOMMENDATION

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home and tourer hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document)
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan) hereby approved.
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of:
the external appearance of the mobile home means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot including details of species (should not include the planting of Sycamore trees), plant sizes and proposed numbers and densities and then outside this area to the north the type 1 surface material to be removed with the land left to regenerate naturally; details of the measures to enhance biodiversity at the site; include the re-instatement of a pond within the land to the north of the site and, the said Scheme shall include a timetable for its implementation.

- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

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

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

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

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

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

- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision;

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

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

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

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement

Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan