

REPORT SUMMARY

REFERENCE NO: - 22/500193/FULL		
APPLICATION PROPOSAL: Retrospective application for material change of use of land to a mixed use of land for stationing of caravans for residential purposes and the keeping of horses.		
ADDRESS: 1 Greengates, 2 Lenham Road, Headcorn, Ashford, Kent, TN27 9LG		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposal is acceptable in relation to visual harm, residential amenity, and highway safety.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Parish Council if officers are minded to approved for the reasons set out in section 5 of this report.		
WARD: Headcorn	PARISH/TOWN COUNCIL: Headcorn	APPLICANT Mr. Bill Anderson
CASE OFFICER: William Fletcher	VALIDATION DATE: 03/03/2022	DECISION DUE DATE: 31/08/2022
ADVERTISED AS A DEPARTURE: No		

Relevant Planning History

1 Green Gates:

01/1320 - Change of use of land to residential and stationing of 1 no. mobile home, as shown on drawings received on 14.08.01. Refused. Appeal Allowed 17/09/2001

05/0518 - Retrospective application for the change of use of land from agriculture to the stationing of 1 no mobile home and 1 no touring caravan as shown on unnumbered plans received on 30/12/04 and 10/02/05. Refused. 05/05/2005

10/2177 - Application for planning permission for the change of use of land for the stationing of 4no static caravans for residential occupation by extended Gypsy family and associated development (stationing of 3no touring caravans, extended hardstanding and cess pool) as shown on site location plan and A4 site layout plan received on 30th December 2010. Three year temporary, named, permission granted. Temporary permission. 04/04/2013

14/504021/FULL - Application to vary condition 1 of MA/10/2177 (Application for planning permission for the change of use of land for the stationing of 4no static caravans for residential occupation by extended Gypsy family and associated development, stationing of 3no touring caravans, extended hardstanding and cess pool) to allow any gypsy family to live on site. Refused on the grounds of Planning permission 10/2177 expiring on 4 April 2016. Refused 01/07/2016

17/501852/FULL - Siting of four mobile homes and three touring caravans. (Retrospective). Refused on the grounds that the development would be visually harmful to the character and appearance of the countryside and any supplementary landscaping would not mitigate this harm. This would be contrary to policies ENV28 of the Maidstone

Borough-Wide Local Plan 2000 and the NPPF, and draft policies SP17 and DM15 of the draft Maidstone Borough Local Plan (2011-2031). Refused, Appeal Withdrawn. 17/08/2017.

Oak Tree Farm

18/503291/FULL - Change of use of land to use as a residential gypsy caravan site for two gypsy families including the stationing of 2 no. mobile homes and 1 no. touring caravan. Permission refused 05/10/2018. Appeal allowed 22/04/2022,

19/501788/FULL - Retrospective change of use of land to use as a residential caravan site for two gypsy families including the stationing of 2no. mobile homes and 1no. touring caravan (resubmission of 18/503291/FULL). Permission refused 11/06/2019. Appeal allowed 22/04/2022,

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located to the south east of Lenham Road, Headcorn, approximately 1.5 miles outside the settlement boundary of Headcorn. The application site is located amongst a group of other Gypsy and Traveller sites with mobile homes, tourers and other outbuildings present. In policy terms the application site is within the countryside but otherwise there are no other policy designations.
- 1.02 There is an established, dense native species hedgerow approximately 4 metres in height along Lenham Road and the application site is bounded by a 2m close boarded fence on all sides including the boundary along Lenham Road, behind the hedgerow. The hedgerow allows for filtered views of the tops of the application site which houses 2 mobiles, 2 tourers and the pole barn and stable building.
- 1.03 The application site in this instance was originally part of the 'wider' Greengates site, as indicated in the below image. This site has since been subdivided. The application site in this instance is known as 1 Greengates with the site to the south known as Greengates.

Image 1: Site Location Plan 17/501852/FULL (current application site in blue)



- 1.04 The application site is accessed at the start of Long Lane, as depicted below which provides access to other sites to the southeast of the application site (Land Adjacent Greengates, 1 Long Lane and Long Lane).

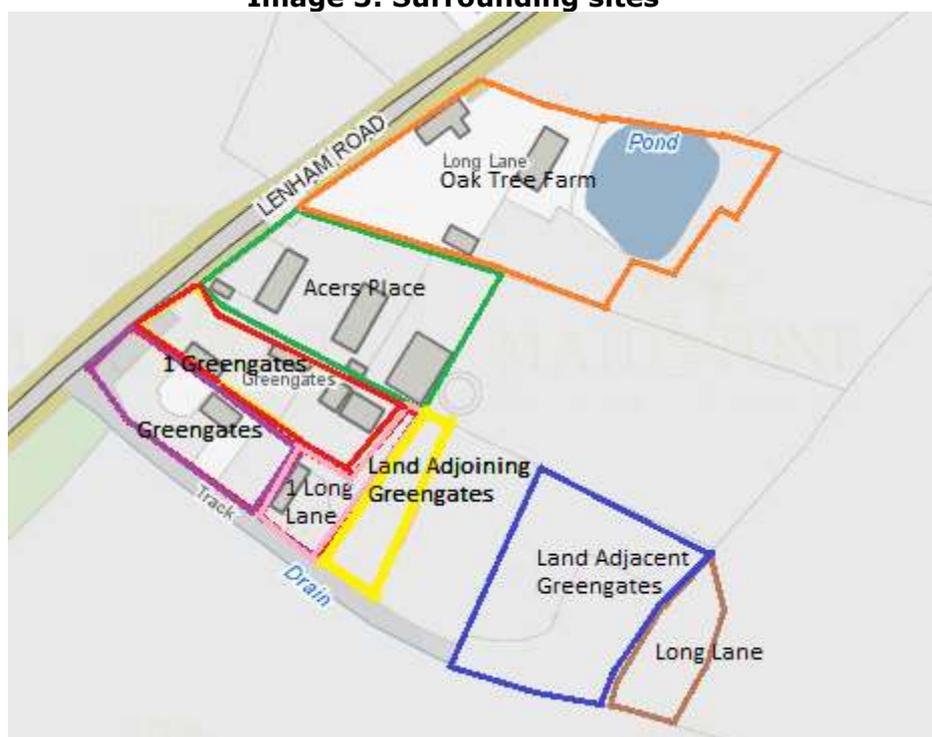
Image 2: Proposed Site Layout Plan (red access arrow added by case officer)



- 1.05 The application site is accessed via a close boarded gate located at the western end of the plot. The two mobiles are depicted above in purple with the two tourers in orange. It is unclear what application if any the three grey buildings on site are associated with. They appear on the existing plans for application 10/2177, the two larger buildings are listed as a stable and a pole barn.
- 1.06 Correspondence with the agent indicates the existing buildings on site are used in line with the purposes sought through this planning application; for the use of land as a mixed use for residential purposes and the keeping of horses. When considering the amount of time these buildings have been present, were a lawful development certificate (existing) submitted on the balance of probability it seems likely these would be granted permission to remain. The hardstanding has also been in place for a similar amount of time, with the first of it appearing in 2007 towards Lenham Road.
- 1.07 Existing gypsy and traveller development is evident in the area. As well as the sites immediately surrounding the application site, there are the sites associated with Ash Gardens and Smiths Cottages 150m northeast of the application site. Approximately 170m to the northwest of the Ash Gardens sites is a Gypsy and Traveller site where there is ongoing appeal (public inquiry).
- 1.08 In terms of the surrounding development Image 3 below shows nearby gypsy and traveller development.
- **Red site:** This is the current application site
 - **Purple site:** The site to the south of the application site 'Greengates' is currently 'unlawful', with an application in progress (21/506265/FULL).

- **Green site:** Immediately to the north of the application site is 'Acers Place'. Following the latest applications (19/502590/FULL and 20/504079/FULL) which were 'declined to be determined', the site has been cleared of development. The site has been submitted as a Gypsy and Traveller site in the local plan 'call for sites'.
- **Orange site:** To the north of 'Acers Place' is Oak Tree Farm where two applications were refused in 2018 and 2019. These appeals were dismissed and permanent permission granted in April 2022.
- **Pink site:** The site immediately to the southeast '1 Longlane' is 'unlawful' with a retrospective application (21/506257/FULL) awaiting determination.
- **Yellow Site:** The site immediately to the east is 'Land Adjoining Greengates', unlawful, retrospective application (22/502321/FULL) awaiting determination.
- **Blue site:** 50m to the east of the application site is 'The Land Adjacent Greengates'. This site has been subject to a number of applications with the most recent (21/500188/FULL) permitted on a temporary three-year basis expiring on 01/04/2024.
- **Brown site:** Immediately to the east of 'The Land Adjacent Greengates' is 'Long Lane'. Whilst the site needs to be fully cleared, it is no longer used for the stationing of caravans following refusal 15/502956/FULL.

Image 3: Surrounding sites



- 1.09 The development upon the application site itself (highlighted in red) is retrospective, following the subdivision of the wider site which itself contained Gypsy and Traveller development albeit on a temporary basis.

2.0 PROPOSAL

- 2.01 The current application seeks retrospective planning permission for a material change of use of land to a mixed use as a residential gypsy caravan site and the keeping of horses, this includes the stationing of two mobile homes and two touring caravans as well as. Horses would be kept in the existing stable building on site

The current application is retrospective, although it should be noted that the site has been 'tarmacked' with a mobile home on it continuously since 2005.

- 2.02 As such, should all current planning applications be successful there would be
- 1 mobile home and 1 tourer as well as the associated development upon 'Greengates'.
 - 2 mobiles and 2 tourers at '1 Greengates',
 - 2 mobiles and 1 tourer at Oak Tree Farm,
 - 1 mobile and 1 tourer '1 Long Lane' and
 - 2 mobile homes, 2 touring caravans, and associated development at the 'Land Adjacent Greengates' and
 - 1 mobile and 2 tourers associated with 'Land Adjoining Greengates'.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM3 – Natural environment

DM15 – Gypsy, Traveller and Travelling Showpeople accommodation

DM30 – Design principles in the countryside

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Maidstone Landscape Character Assessment (amended 2013)

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

- The Regulation 22 draft is a material consideration, and some weight must be attached to the document because of the stage it has reached. This weight is limited, as it has yet to be the subject of an examination in public.

4.0 LOCAL REPRESENTATIONS

- 4.01 As well as the site notice, seven neighbouring properties were consulted by letter. No representations were received.

5.0 CONSULTATIONS

Headcorn Parish Council

- 5.01 Objection for the follow summarised reasons

- The absence of evidential proof for Traveller status.
- Poor social cohesion with the settled community.
- Disproportionate numbers of Traveller sites in the Headcorn area, which exceeds the UK average.
- The sites are not sustainable and at odds with the LPA Local Plan
- Harm to the local landscape
- Unsustainable location removed from basic services and facilities.

KCC Highways

5.02 No objection recommends standard informative on highways land.

6.0 APPRAISAL

6.01 ...The key issues are: ...

- Need for Gypsy and Traveller Pitches
- Supply of Gypsy Sites
- Gypsy Status
- Design, Landscape and Visual Impact
- Cumulative Impact
- Amenity Impact
- Highways
- Ecology
- Domination and Pressure on Local Infrastructure
- Sustainability

Need for Gypsy and Traveller Pitches

6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.

6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Show People Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period are shown in the table below.

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

6.04 The GTAA is the only complete assessment of need that is currently available forming part of the evidence base to the Local Plan. The GTAA when it was carried out provided a reasonable and sound assessment of future pitch needs. Notwithstanding this, each decision must be taken on evidence available at the time and the GTAA is 11 years ago.

6.05 The Council's Regulation 19 Local Plan was submitted to the Planning Inspectorate on 31st March 2022 and whilst this document is a material planning consideration, at this time it is not apportioned much weight.

6.06 The Council's Regulation 19 Local Plan seeks to meet the future identified need for Gypsy and Traveller accommodation; and a separate Gypsy, Traveller and Travelling Showpeople DPD will be produced to manage the emerging need for the period until 2037. A call for sites exercise ran from 1st February to 31st March 2022. The DPD is at its early stages and is not due to be completed until 2024, however the work that has been completed has indicated a significant emerging need for

Gypsy and Traveller accommodation in the borough and significantly greater than the 187 pitches indicated above.

Supply of Gypsy Sites

- 6.07 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.
- 6.08 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 30 April 2022.

Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (as of 30th April 2022):

Type of consents	No. pitches
Permanent consent	253
Permanent consent + personal condition	26
Consent with temporary condition	0
Consent with temporary + personal conditions	7

- 6.09 A total of 279 pitches have been granted permanent consent since October 2011. These 279 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 6.2 year supply of Gypsy and Traveller sites at the base date of 1st April 2021.
- 6.10 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".
- 6.11 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

- 6.12 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 show people or circus people travelling together as such".
- 6.13 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, 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.

- 6.14 The agent acting on behalf of the applicant has submitted additional information detailing the applicant's personal circumstances.
- 6.15 The site would be occupied by the applicant and his partner together with their school aged children. The applicant is of English Romany Gypsy descent and been based in Kent all his life when not traveling the country to find work, mostly during the months which have better weather.
- 6.16 He and the family attend various horse-based traveller fairs such as Appleby and Stow, and they also take part in religious charities relating to the Traveller community.
- 6.17 A roadside existence is detrimental to children's health and education, which would be resolved by having a settled base. As detailed by the planning inspector in appeal reference 3199316 (Ash Gardens, Lenham), the needs of the children must be given "very significant weight" when determining an application in these circumstances.

Landscape and Visual Impact

- 6.18 Local Plan Policy SP17 states that development proposals in the countryside will not be permitted unless:
 - a) they accord with other LP policies and
 - b) they will not result in harm to the character and appearance of the area.
- 6.19 The application site is located in the countryside and will result in harm to the character and appearance of the area. The other relevant LP policies are DM15 and DM30 and compliance with these policies weighs in favour of the submitted application.
- 6.20 Policies DM1 and DM30 set out how development must respond positively to, and where possible enhance the character of the area and that any detrimental effects to the landscape must be appropriately mitigated.
- 6.21 Policy DM15 states that Gypsy and Traveller development states that development must not result in significant harm to the landscape and rural character of the area. Impact on these aspects will be assessed with particular regard to:
 - (a) Local landscape character;
 - (b) Cumulative effect – the landscape impact arising as a result of the development in combination with existing lawful caravans; and
 - (c) Existing landscape features – development should be well screened by existing landscape features and there is a reasonable prospect of such features long term retention.

Local Landscape Character

- 6.22 The application site is located in countryside identified as a Landscape of Local Value, The Headcorn Pasturelands within the Low Weald. The Low Weald Landscape of Local Value (LLV), for the purposes of the Local Plan, is a landscape that is highly sensitive to significant change. The Low Weald has distinctive landscape features including field patterns (many of medieval character), hedgerows, stands of trees,

ponds and streams, and buildings of character. The landscape has a gently undulating form with only scattered housing, farmsteads or hamlets and a few narrow lanes like Lenham Road. The landscape is generally attractive with an agricultural and rural quality. The site also falls within the Headcorn Pasturelands Landscape Character Area as a low lying landscape which forms part of the wider Low Weald and shares many of the same characteristics.

- 6.23 The 2017 application (17/501852/FULL) which related to the "wider" Greengates site detailed above, assessed that the development, including the mobiles, hard surfacing, and fencing, particularly at plot 1 and 2, would be visible from Lenham Road when approaching the site from the south but the presence of the tree belt on adjoining land means that views are broken.
- 6.24 Whilst there are views into the site from the entrance, there are no public rights of way in the immediate vicinity of the application site and no significant public views into the site. The only views of the site are from the entrance of Long Lane, the main site area is screened by the 'Greensgate' site.
- 6.25 Local Plan policy DM15 states that in assessing impact on the landscape weight will be attached to screening by existing landscape features. The application site is screened from Lenham Road by a mature hedgerow. Even in winter, the mobile home next to the hedge is difficult to see due to the density of planting any views are glimpses and filtered by existing vegetation. The hardstanding is only visible when the gate is open, and the gate itself has stark urban appearance.". Local Plan policy DM15 states that: *Additional planting should be used to supplement existing landscaping but should not be the sole means of mitigating the impact of the development.*
- 6.26 Should permission be granted, conditions will be imposed requesting additional landscaping along the north western boundary, in order to provide further screening of the site from Lenham Road.
- 6.27 The above assessment has been made in the context of Gypsy and Traveller accommodation that currently exists on neighbouring sites. To attach the appropriate weight in the assessment of the current application, it is highlighted that in addition to the current application three nearby sites have current retrospective planning applications (1 Greengates 22/500193/FULL and 2 Long Lane applications 21/506257/FULL and 22/502321/FULL).
- 6.28 Acers Place' has been cleared of development but submitted as a Gypsy and Traveller site in the local plan 'call for sites'. The Land Adjacent Greengates'. Has temporary permission on a three-year basis expiring on 01/04/2024. (21/500188/FULL. Long Lane' no longer used for the stationing of caravans following refusal 15/502956/FULL.
- 6.29 Earlier Council Decisions to refuse planning permission at Oak Tree Farm (60m to the northeast of the application site) have recently been overturned with two appeals allowed in April 2022 and permanent permission granted for gypsy and traveller accommodation on these sites.
- 6.30 Paragraph 12 of the appeal decision notes "Lenham Road runs through this landscape north-eastwards from Headcorn. The countryside either side of the road exhibits many of the above qualities but also contains several gypsy and traveller sites that have a contrasting character and appearance. These sites vary in size and orientation, but typically involve large amounts of hardstanding and fencing, with a number of mobile homes and touring caravans visible from the road"
- 6.31 Paragraph 14 states "The site already has a good level of screening from the road thanks to the mature hedgerow. Even in winter, the mobile home next to the hedge

is difficult to see due to the density of planting. The mobile home in front of the pond is more obvious from the site entrance and can also be seen in views from the road to the north-east. However, such views are glimpses and filtered by existing vegetation. The hardstanding is only visible when the gate is open, and the gate itself has stark urban appearance.”.

Oak Tree Farm



1 Greengates



- 6.32 Whilst the access to 1 Greengates is more 'exposed' than Oak Tree Farms on account of it being located at the top of Long Lane, broadly the impact of the development on Lenham Road is similar.
- 6.33 Photographs of the mobiles have been submitted in lieu elevation drawings. The mobiles themselves are single storey buildings with, shallow gable ended roofs approximately 10m in length and 3m in height. The 'north' mobile is clad in cream PVC cladding with 'clay' PVC roofing, the south is rendered with roof tiles. In the specific context of other surrounding Gypsy sites, the appearance of the mobile is unlikely to appear incongruous in terms of scale and design. The barn and stable

building are not assessed as harmful. These types of buildings are often found on Gypsy and Traveller sites, they do not have a harmful visual impact.

- 6.34 The proposal would be in keeping with the wider landscape character in terms of the boundary planting and would also reflect the scattered form of development in the surrounding area.

Cumulative Impact

- 6.35 Policy DM15 advises that the cumulative effect on the landscape arising as a result of the development in combination with existing lawful caravans needs to be assessed and to ensure no significant harm arises to the landscape and rural character of the area.
- 6.36 The information in the preceding parts of this report, including the planning history section, have set out the planning history of adjacent sites.
- 6.37 In terms of cumulative impact, paragraph 17 of the appeal relating to Oak Tree Farm states "Both appeal schemes would be in keeping with the wider landscape character in terms of the existing and proposed boundary planting and would also reflect the scattered form of development in the surrounding area. Thus, the cumulative effect of the development in either appeal would not be harmful."
- 6.38 The inspector also states in the same paragraph "If the various unauthorised sites were removed and returned to agricultural fields, the site with appropriate boundary planting would remain low key. I have no reason to doubt that the planting could be maintained, improved, and retained in the long-term."
- 6.39 With regards to paragraph 17, the Inspector would have to consider either outcome in terms of the other unauthorised adjacent sites (removal or retention), it appears that the overriding consideration was that the nature of the site with caravans meant that the sites were low key and had the benefit of landscape screening. The possibility of the other sites becoming lawful was also a factor but not the overriding one.
- 6.40 The landscape impact of the proposal has been assessed above and it is not assessed that any landscape harm occurs as a result of the development. Were the surrounding sites removed and returned to agricultural fields, the site would remain low key when viewed from Lenham Road. Additional landscaping is sought through planning condition. The current submitted proposal for two additional mobiles and two additional tourers which benefit from existing landscaping would also be a 'low key' development and will not result in significant cumulative landscape harm sufficient to warrant a refusal on cumulative harm.

Amenity

- 6.41 Policy DM1 states that applications must respect the amenity of neighbouring properties and that development must not result in overlooking, visual intrusion, loss of privacy or light enjoyed by nearby properties.
- 6.42 In terms of the impact upon the amenity of other Gypsy and Traveller accommodation, the closest sites are located immediately south of the application site, Greengates, 1 Long Lane and Land Adjoining Greengates. Views into these sites are restricted by the boundary fence, and when considering the distances between the caravans and tourers and their single storey nature it is not assessed that any overshadowing or loss of privacy would occur.

- 6.43 In terms of the impact upon the settled community, there are no permanent dwellings in the immediate vicinity of the application site, and no harmful impact would occur to the settled community.

Highways

- 6.44 Policy DM1 states that applications must ensure that development does not result in, amongst other things excessive activity or vehicle movements. Policy DM15 states that there must be safe site access from the highway. DM30 also continues this theme stating that proposals must not result in unacceptable traffic levels on nearby roads or unsympathetic changes to the character of rural lanes.
- 6.45 With the small-scale nature of the submitted proposal, the vehicle movements from the application site are easily accommodated on the local road network. The current proposal does not raise any highway safety issues in relation to the use of the existing access on to Lenham Road including in terms of diver sightlines. A refusal would not be warranted in relation to the individual impact from the two additional mobiles currently proposed, the keeping of horses on site or in terms of the cumulative impact from other local development.
- 6.46 No objections to the development have been raised by the local highway authority.

Ecology

- 6.47 The National Planning Policy Framework encourages net gains for biodiversity to be sought through decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.
- 6.48 Policy DM3 states that development proposals will be expected to appraise the value of the boroughs natural environment and take full account of biodiversity present including the retention and provision of native plant species.
- 6.49 On this basis a planning condition is recommended requiring the applicant to submit details of biodiversity enhancement to achieve a net biodiversity gain on the application site. This could be in the form of retro fitted bird boxes bat boxes, and where relevant bee bricks.

Domination and pressure on local infrastructure

- 6.50 The Planning Policy for Traveller Sites, paragraph 25 states "Local Planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing undue pressure on local infrastructure".
- 6.51 It is not assessed that the addition of two mobiles and two touring caravans will dominate the nearest settled community or place undue pressure on local infrastructure. I cannot see any grounds to conclude that the current proposals would place undue pressure on local infrastructure.

Sustainability

- 6.52 The supporting text to policy DM15 states in relation to gypsy and traveller accommodation "It is preferable for sites to be located close to existing settlements where there are community facilities such as schools and health services. Frequently, because of land availability, more rural sites are proposed. Where such sites are proposed, the impact of development on the landscape and rural character is an important factor in respect of the wider objective of protecting the intrinsic character of the countryside".

- 6.53 The site is approximately 1.6 miles northeast of Headcorn where there is access to a comprehensive range of services, amenities and facilities.
- 6.54 To access services within Headcorn it is accepted that occupants of the site will be reliant on private vehicles, which is the same arrangement as the existing sites in the vicinity and at other Gypsy and Traveller sites throughout the borough.

PUBLIC SECTOR EQUALITY DUTY

- 6.55 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.
- 6.56 Race is one of the protected characteristics under the Equality Act and ethnic origin is one of the things relating to race. Romany Gypsies and Irish Travellers are protected against race discrimination because they are ethnic groups under the Equality Act. This application has been considered with regard to the protected characteristics of the applicant and the gypsies and travellers who occupy the caravans. I am satisfied that the requirements of the PSED have been met and it is considered that the application proposals would not undermine objectives of the Duty.
- 6.57 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.

7.0 CONCLUSION

- 7.01 In predicting the need for Gypsy and Traveller accommodation in the borough the GTAA target of 187 additional pitches, whilst the conclusion of the latest full needs assessment, needs to be weighed against the age of this assessment which is 11 years old. Whilst limited work has been completed on a more up to date needs assessment (estimated completion in 2024) the work that has been completed has shown a significant increased need.
- 7.02 The agent acting on behalf of the applicant has submitted information relating to the applicants Gypsy and Traveller status and this is accepted.
- 7.03 The above report has set out the planning history on the application site and the history relating to neighbouring sites where gypsy and traveller accommodation are currently located and has highlighted temporary permissions.
- 7.04 In reaching a conclusion on the current proposal the decision maker has to take account of the possibility of neighbouring caravans being removed from the site. This was confirmed in the Blossom High Court decision which found that the potential change to the character of an area needs to be assessed "if the Council took action or if the temporary permission expired".
- 7.05 Whilst unlikely to take place, if all neighbouring caravans without permanent planning permission were to be removed, the application site would still be broadly screened from Lenham Road by existing landscaping.
- 7.06 As is detailed in the planning history section, previous appeals at sites in the area (as well as others not referred to in this report) indicate that the needs of the applicant's children and the benefits of raising them in a stable environment should be given significant weight in the decision making process. This requirement and as outlined in this report the lack of any significant harmful visual impact leads to the conclusion that planning permission should be approved.

- 7.07 The development is not assessed as having an impact upon the amenity of neighbouring Gypsy and Traveller, nor would it result in so many additional vehicle movements that a harmful impact upon the countryside would occur.
- 7.08 Conditions are recommended to ensure the development results in a gain for biodiversity.
- 7.09 It is not assessed that the addition of two mobiles and two touring caravans will dominate the nearest settled community or place undue pressure on local infrastructure. I cannot see any grounds to conclude that the current proposals would place undue pressure on local infrastructure.
- 7.10 To access services within Headcorn it is accepted that occupants of the site will be reliant on private vehicles, which is the same arrangement as the existing sites in the vicinity and at other Gypsy and Traveller sites throughout the borough.

8.0 RECOMMENDATION –

GRANT PLANNING PERMISSION subject to the following conditions.

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and information:

Application for Planning Permission
21_1194_002 Existing Site Plan
21_1194_001 A Location Plan
21_1194_003 Proposed Block Plan
Photographs x9

Reason: To clarify which plans have been approved.

- 2) The mobile homes and tourers 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.

- 3) No more than two mobile homes and two tourers 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, , and no further caravans shall be placed at any time anywhere within the site. The mobile home and tourer shall be stationed on the site only in the positions shown on the plan (Proposed Site Plan received 22 November 2021) 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.

- 4) 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.

- 5) 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:
 - a) the external appearance of the mobile home and utility building;
 - b) means of enclosure,
 - c) extent of hardstanding and parking;
 - d) the means of foul and surface water drainage at the site;
 - e) existing external lighting on the boundary of and within the site;
 - f) details of proposed landscaping
 - g) details of the measures to enhance biodiversity at the site; and,
 - h) 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.

- 6) Within 6 weeks of the date of this decision a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) shall be submitted to and approved in writing by the local planning authority. The scheme shall use predominantly native or near-native species as appropriate and show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, the location of any habitat piles of cut and rotting wood and include a plant specification, implementation details, a maintenance schedule and a [5] year management plan. [The landscape scheme shall specifically address the need to provide additional planting along the north western boundary of the site.]

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

- 7) All planting, seeding and turfing specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following its approval. Any seeding or turfing which fails to establish or any existing or

proposed trees or plants which, within five years from planting 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: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- 8) No additional external lighting shall be installed unless full details of any such lighting have first been submitted to, and approved in writing by, the local planning authority. The approved details shall be in accordance with the Institute of Lighting Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E1. The development shall thereafter be carried out in accordance with the approved details and retained as such thereafter Reason: In order to protect dark skies and prevent undue light pollution, in accordance with the maintenance of the character and quality of the countryside.

- 9) 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.

- 10) 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.

INFORMATIVES:

- (1) The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Maidstone Housing & Communities Support Team in respect of a licence or apply online at:
<https://www.gov.uk/apply-for-alicence/caravanand-camping-site-licence/maidstone/apply-1>

- (2) Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development 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/highwayland/highwayboundary-enquiries>

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

- (4) In relation to foul sewage disposal, please contact the Environment Agency to establish whether a discharge consent is required from them. Further information on how to apply for an environmental permit and general binding rules applicable to small discharges of domestic sewage effluent is available on the gov.uk website.