

REPORT SUMMARY

REFERENCE NO: - 22/501909/FULL		
APPLICATION PROPOSAL: Retrospective application for stationing of 2 no. static caravans on an existing gypsy site.		
ADDRESS: 3 Quarter Paddocks, Bletchenden Road, Headcorn, Ashford, TN27 9JB		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION FOR APPROVAL: The proposal has been assessed in relation to harm to the character and appearance of the countryside and flood risk and found to be acceptable. The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of permanent approval is therefore made on this basis, subject to the suggested conditions.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Headcorn Parish Council for the reasons set out below in Section 4 of this report.		
WARD: Headcorn	PARISH: Headcorn	APPLICANT Mr George Arber AGENT: Target Carbon Management
CASE OFFICER: Tony Ryan	VALIDATION DATE: 27/05/2022	DECISION DUE DATE: 24/02/2023
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- 03/2366: Change of use of land to residential incorporating the stationing of three mobile homes and two touring caravans for an extended gypsy family. Permission refused on the 16 February 2004 for the following reasons:
 1. *"No evidence has been submitted to demonstrate that the site is intended to be occupied by gypsy families as defined by Section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended. This would fail to meet the requirements of policy H36(I) of the Maidstone Borough-Wide Local Plan 2000.*
 2. *The site is partly but not adequately screened by natural features and hence would be contrary to policy H36(2) of the Maidstone Borough-Wide Local Plan 2000.*
 3. *Since the site does not meet the requirements of policy H36 of the Maidstone Borough-Wide Local Plan 2000 it does not fall to be considered as a justified exception to policies of countryside restraint within a Special Landscape Area and is therefore contrary to the provisions of policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000.*

4. *The site is located within the defined 1 in 100 year flood plain with a high risk of actual flooding and consequent risk to human life and is therefore considered to be totally unsuitable for residential occupation. Development on this site would therefore be contrary to policy ENV50 of the Maidstone Borough-Wide Local Plan 2000.*

- Decision to refuse planning permission under application 03/2366 was overturned following an appeal. Planning permission was given by an appeal inspector as set out on the decision notice dated 3 August 2009.

On reason for refusal 1: Gypsy status

At paragraph 10 the appeal inspector sets out that this reason related to the "...alleged lack of evidence that the site would be occupied by gypsies – as then defined. However. The Council now accepts the gypsy status of the appellant and did not contest this reason for refusal in relation to any of the current occupiers of the site".

On reason for refusal 2: Landscape impact – screening

On reason for refusal 3: Landscape impact - Special Landscape Area

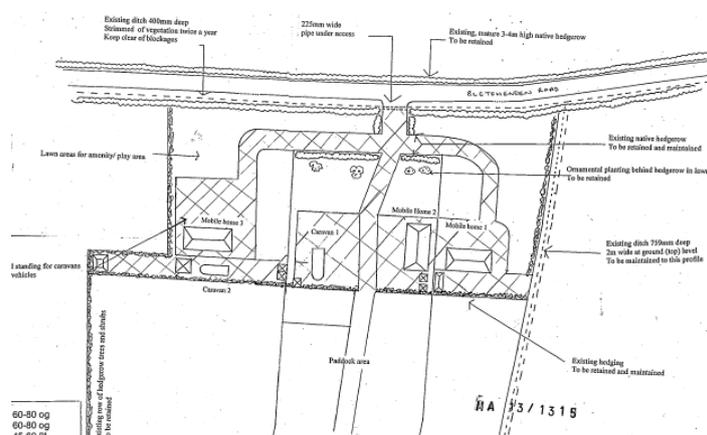
The appeal inspector sets out that whilst the proposal would result in landscape harm this harm is outweighed by the need for the caravans and the needs of the children on the site.

On reason for refusal 4: Flooding

At paragraph 9 the appeal inspector sets out "...after the Council's decision and just before the first inquiry, the Environment Agency indicated that their objection had been addressed by evidence on flood risk. This objection was withdrawn subject to the imposition of a condition. This reason for refusal is no longer contested".

- 13/1315: Continued occupation of the site as a gypsy caravan site (allowed appeal under ref:03/2366l) but with variation of the following conditions to allow:
 - Condition 2: To enable unrestricted occupation by any gypsy/traveller family (currently restricted to applicant and dependents);
 - Condition 3: To enable permanent occupation by gypsy and traveller family (currently restricted to 4 years expiring on the 31st July 2013) and;
 - Condition 4: Increase in number of caravans on site (currently permitted 3 static and 2 tourers) to 4 static and 4 tourers. Permission granted 20 March 2014

Proposed site layout application 13/1315:



- 15/509482/full Extension to existing site to form additional plot, comprising of the siting of 1 static mobile home and 1 touring caravan. Re-positioning of 1 static

mobile home and erection of storage/dayroom to plot 1 (Part-retrospective).
Approved 21 September 2016

16/508545/FULL (4 Quarter Paddocks) Moving mobile home and erection of new
day room building. Approved 28.04.2017

1.0 DESCRIPTION OF SITE

- 1.01 The site is located on the south side of Bletchenden Road and a straight line distance of 0.7 miles to the south of Headcorn Railway Station. The application site is the third of the four plots providing gypsy and traveller accommodation at Quarter Paddocks with plot 4 located to the west and plot 2 to the east.
- 1.02 For the purposes of the adopted Local Plan the application site is outside any designated settlement and in the countryside. The site is in the Low Weald Landscape of Local Value (land was in a Special Landscape Area at the time of the earlier decisions). The site is in flood risk zone 3.

Aerial photograph



2.0 PROPOSAL

- 2.01 The application is for retrospective permission for the stationing of 2 no. static caravans on an existing gypsy site.
- 2.02 The two additional caravans are currently on the site. The existing caravan to the north and the other two caravans were originally positioned in a line along the western site boundary. As part of the current application, the southern most caravan is turned 90 degrees to face the front of the site.
- 2.03 The applicant lives in the northern most caravan and the two additional caravans are occupied by the applicant's two daughters. The first caravans is occupied by a

single mum with a young child and the second caravan by a daughter who due to health reasons requires assistance from her parents (the applicant).

3.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough Local Plan (2017): policies SS1, SP17, DM1, DM3, DM8, DM15, DM23, DM30.
- Landscape Character Assessment (2013) and Supplement (2012)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- The National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

Supplementary Planning Guidance:

- Planning Policy for Traveller Sites (2015)
- Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2012)
- 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 however weight is currently limited, as it is the subject of an examination in public that commenced on the 6 September 2022 (Stage 1 hearings concluded). The relevant policies in the draft plan are as follows:

LPRSP10: Housing

LPRSP10(A): Housing mix

LPRSP12: Sustainable transport

LPRSP14: The environment

LPRSS1: Maidstone borough spatial strategy

LPRSP9: Development in the countryside

LPRSP14A: Natural environment

LPRSP14(C): Climate change

LPRSP15: Principles of good design

LPRHOU 8: Gypsy and traveller accommodation

LPRTRA2: Assessing the transport impacts of development

PRTRA4: Parking

LPRQ&D 1 Sustainable design

LPRQ&D 2: External lighting

LPRQ&D 6: Technical standards

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Maidstone Landscape Character Assessment (amended 2013)

4.0 LOCAL REPRESENTATIONS

4.01 No response to neighbour consultation.

Headcorn Parish Council

4.02 Objection and recommend refusal on the following grounds:

- 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 with reliance on the private motor vehicle.
- Will cause harm to the local landscape Low Weald Landscape of Local Value.
- Will neither maintain nor enhance the local distinctiveness of the countryside.
- Contrary to policies SS1, SP17 and DM1 of the Maidstone Local Plan (2017) and the National Planning Policy Framework (2019).

5. CONSULTATIONS

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

KCC Highways

5.01 No objections

Environmental Health

5.02 No objection subject to conditions.

Headcorn Aerodrome

5.03 No objection. Concern raised about the proximity of the site to the aerodrome and the potential noise disturbance that the existing activities at the aerodrome may cause.

KCC Local Lead Flood Authority

5.04 No objection as this is not 'major' development

Environment Agency

5.05 Objection on the following grounds

- Caravans, mobile homes and park homes intended for permanent residential use are classed as "Highly vulnerable" and should not be permitted in Flood Zone 3a.
- Proposed finished floor levels suggested within the Flood Risk Management Plan dated 21 July 2022 from Target Carbon Management remain unacceptable due to the flood risk in the area.
- There is a distance of over 100 metres from the caravan site along the access road where the flood depth will be 150mm. After around 100 metres, the road level rises, and it is only then that dry access can be gained (heading east towards the A274).

6. APPRAISAL

6.01 The key issues are:

- Need for gypsy and traveller pitches
- Supply of gypsy sites
- Gypsy status
- Landscape and visual impact
- Cumulative Impact
- Residential amenity
- Highways
- Ecology
- Domination and pressure on local infrastructure
- Sustainability
- Flood risk

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 The GTAA is the only complete assessment of need that is currently available forming part of the evidence base to the Local Plan (Total need Oct 2011 to March 2031 of 187 pitches). The GTAA when it was carried out provided a reasonable and sound assessment of future pitch needs. However, this is now over 11 years old and because of its age, little weight can be attached to this document.
- 6.04 The Local Plan Review examination in public commenced on the 6 September 2022 (currently between Stage 1 and Stage 2 hearings). Whilst this document is a material planning consideration, at this time it is not apportioned much weight. Furthermore, the Council has chosen to separate the matter of gypsy and traveller policy from the LPR and is pursuing a separate DPD on this matter. This DPD is yet to go out to first stage consultation.
- 6.05 A call for sites exercise ran from 1 February 2022 to 31 March 2022 as part of the process. The Gypsy, Traveller and Travelling Showpeople DPD is at its early stages and is not due to be completed until 2024.
- 6.06 In contrast to the full assessment in the 2012 GTAA, (and whilst it is highlighted that nothing has to date been published), the work completed so far on an up to date assessment has indicated a significant emerging need for Gypsy and Traveller accommodation in the borough.

Supply of Gypsy Sites

- 6.07 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide under the Housing Act (2004).
- 6.08 The following table sets out the overall number of pitches which have been granted consent from 1 October 2011, the base date of the assessment, up to 30 April 2022.

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

Type of consents	No. pitches
Permanent consent	253
Permanent consent and personal condition	26
Consent with temporary condition	0
Consent with temporary and 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 (based only on the data in the 11 year old GTAA) is that it can demonstrate a 6.2 year supply of Gypsy and Traveller sites at the base date of 1 April 2021.

Gypsy status and personal circumstances

- 6.10 A judgement dated 31 October 2022, from the Court of Appeal in Smith v. SoS for Levelling Up, Housing and Communities (CA-2021-00171, 31st October 2022) concerned a planning inspector's reliance on the definition of Gypsies and Travellers in Planning Policy for Traveller Sites. This guidance was introduced by the government in August 2015.
- 6.11 The previous definition before August 2015. had been: "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' education or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such". The new definition post 2015 deleted "or permanently".

- 6.12 The SoS accepted that this indirectly discriminated against elderly and disabled Gypsies and Travellers but argued that the discrimination was justified. The appeal court judgement sets out 66... *"the nature of the discrimination before the judge was the negative impact on those Gypsies and Travellers who had permanently ceased to travel due to old age or illness, but who lived or wanted to live in a caravan. This discrimination was inextricably linked to their ethnic identity".* 139 "... the effect of the relevant exclusion was – as the Secretary of State has conceded – discriminatory, and that, on the evidence before the court in these proceedings, there was no proper justification for that discrimination..."
- 6.13 The agent acting on behalf of the applicant has submitted a statement detailing the applicant's personal circumstances. The applicant is seeking permission for two additional mobile homes on a site he owns for his daughters and grandchildren. The two additional mobile homes are necessary to allow the applicant, his wife and children can support and provide care to their grandchildren and one disabled grandchild.
- 6.14 There is one existing mobile home occupied by the applicant, located to the north of the site and the additional two caravans are located to the south. The two additional caravans are surrounded by other static caravans. There is sufficient information submitted with the application to show that the occupants of the caravans will be of gypsy and traveller heritage. In order to ensure that occupation of the caravans is retained for gypsy and travellers a planning condition is recommended.

Landscape and visual impact

- 6.15 The adopted Maidstone Local Plan (2017) identifies the site as falling in the countryside outside any designated settlement boundary. Local Plan Policy SP17 states that development proposals in the countryside will not be permitted unless:
- a) they will not result in harm to the character and appearance of the area and
 - b) they accord with other LP policies.
- 6.16 With any development there is a degree of harm to the character and appearance of the countryside and as a result the application is contrary to policy SP17 (a). Whilst there will be a degree of visual harm, and in terms of SP17 (a), as an exception to the normal constraint of development, adopted Local Plan policy DM15 permits development in the countryside in certain circumstances. This includes allowing gypsy and traveller development that does not result in significant harm to the landscape and rural character of the area.
- 6.17 The site is in the Low Weald Landscape of Local Value (at the time of the original permission site was in a Special Landscape Area) and within the Waterman Quarter Low Weald Landscape Character Area (Area 47) within the Council's Landscape Character Assessment. Main characteristics are Low lying gently undulating clay landscape of the Low Weald with many ponds and watercourses; Small to medium sized fields but predominantly pasture, with some arable cultivation and occasional orchards; thick native hedgerows create an intimate atmosphere and the landscape guidelines for this area are to 'Conserve' and 'Reinforce'.
- 6.18 The majority of the application site at 3 Quarter Paddocks is an existing lawful gypsy site. The other Quarter Paddocks sites located to the east and west also provide existing lawful gypsy accommodation. The current application considers the modest

extension of the existing lawful gypsy site, and the new mobile homes would be sited on land that is already domestic in character.

- 6.19 The development does not encroach further south back from Bletchenden Road than neighbouring development. In the decision letter dated 3 August 2009 allowing the appeal the inspector also notes the plant nursery located to the east that included a mobile home that was approved in 2008.

Appearance of one of the static caravans



- 6.20 The new mobile homes and modest area of hardstanding are well contained within the site and very much read in the context of the existing development at Quarter Paddocks. The caravans are not visually dominant from Clapper Lane. Furthermore, the mobile home is of a typical style and appearance; it appears to fall within the definition of a caravan (Section 29 of the Caravan Sites and Control of Development Act 1960).
- 6.21 There is other sporadic development in the area and with the enclosure from existing neighbouring gypsy and traveller development the caravans do not appear visually dominant on the landscape. Public views of the proposal would largely be limited to those immediately through the site's access and glimpses through the roadside planting. On this basis, it is considered that the proposal would only be visible from short range vantage points, and there is also the opportunity to plant additional (native) planting, to help supplement existing landscaping in and around the site. To further safeguard the amenity of the surrounding landscape, external lighting can be restricted by way of an appropriate condition.
- 6.22 With everything taken into account, including the retention of existing landscaping and the potential for further planting, it is considered that the proposal would cause harm to the character and appearance of the countryside hereabouts, but that in landscape terms (as outlined above) it would be in accordance with Local Plan policy DM15 as this harm to the landscape and rural character of the area is not considered to be significant.

Cumulative impact

- 6.23 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.
- 6.24 The information in the preceding parts of this report, including the planning history section, have set out the planning history of adjacent sites. In terms of cumulative impact, the landscape impact of the proposal has been assessed above and it is concluded that the landscape harm that occurs as a result of the development is not grounds for refusal of permission.
- 6.25 Were the surrounding sites removed and returned to agricultural fields, the application site would also remain low key. Additional landscaping will be sought through a planning condition. The current submitted proposal which benefit from existing landscaping would also be a 'low key' development and will not result in significant cumulative landscape harm that is sufficient to warrant a refusal on cumulative harm.

Residential amenity – neighbours

- 6.26 Policy DM1 states that proposals will be permitted where they "respect the amenities of occupiers of neighbouring properties...by ensuring that development is not exposed to, excessive noise, activity, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties".
- 6.27 In terms of the impact upon the amenity of other Gypsy and Traveller accommodation, it has been found that the caravans being considered are either separated by a sufficient distance or screened by boundary treatment. In terms of the impact upon the settled community, there are no permanent dwellings in the immediate vicinity of the application site, no harmful impact would occur to the settled community.

Highways

- 6.28 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.
- 6.29 With the small-scale nature of the submitted application, the vehicle movements from the application site are easily accommodated on the local road network. The current application does not raise any highway safety issues in relation to the use of the existing access on to Bletchenden Road including in terms of driver sightlines. A refusal would not be warranted in relation to the individual impact from the additional caravans or in terms of the cumulative impact from other local development.

Ecology

- 6.30 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.

- 6.31 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

- 6.32 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".
- 6.33 The modest nature of the current application will ensure that it not 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

- 6.34 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".
- 6.35 The site is approximately 0.7 miles to the south of Headcorn Railway Station in a direct line. where there is access to a comprehensive range of services, amenities and facilities.
- 6.36 To access services within Headcorn it is accepted that occupants of the site will be reliant on private vehicles. This arrangement is the same as the existing sites in the vicinity and at other gypsy and traveller sites throughout the borough.

Flood risk

- 6.37 As set out in the planning history section of this report, the potential risk from flooding was one of a number of reasons for the Council's refusal of planning application 03/2366.
- 6.38 On the Inspectors appeal decision letter dated 3 August 2009 the appeal inspector sets out "*...after the Council's decision and just before the first inquiry, the Environment Agency indicated that their objection had been addressed by evidence on flood risk. This objection was withdrawn subject to the imposition of a condition. This reason for refusal is no longer contested*".
- 6.39 Notwithstanding this earlier position reported by the government appointed appeal inspector, the Environment Agency have raised objections to the current planning application. Where flood risk is a consideration NPPG sets out a four point process of assessment as 'Avoid', 'Control', 'Mitigate' and 'Manage residual risk'. The three grounds of objection from Environment Agency (a, b and c) are considered in turn below with reference to these four points of 'Avoid', 'Control', 'Mitigate' and 'Manage residual risk'.

a) Caravans, mobile homes and park homes intended for permanent residential use are classed as "Highly vulnerable" and should not be permitted in Flood Zone 3a.

6.40 *Avoid* - The NPPG advises "In decision-making, where necessary, planning authorities also apply the sequential test and, if needed, the exception test, to ensure that flood risk is minimised and appropriately addressed". The guidance sets out a pragmatic approach to accommodate extensions to existing uses where it may be impractical to move to an alternative location.

6.41 The recent work on the need for gypsy and traveller accommodation has indicated that there is a likely to be a strong need for this type of accommodation in the borough. This need is a material planning consideration and appeal inspectors on sites outside the borough have judged that this need can outweigh issues such as flooding.

6.42 Planning permission for gypsy and traveller accommodation was approved under the allowed appeal (application 03/2366) and the gypsy and traveller accommodation on the application site and neighbouring sites is now established. The current application involves additional accommodation for the family of the existing occupants as an extension to the current site.

6.43 Whilst there is existing occupation of the application site and indications of significant need for this type of accommodation the applicant has conducted a sequential test and exception test. The applicant concludes the following:

Sustainability Benefits

- The allocation of two static caravans provide accommodation to disabled family members, near and close to an existing caravan habited by the family seniors.

Flood Alleviation Measures

- The proposed two caravans are sited on higher ground to the existing caravan, which are all raised 1m above the ground.
- The siting of two static caravans will not affect flooding or have any detrimental effect to neighbouring areas, as water will just run under neath the unit.
- There are many flood risk measures implemented around the local vicinity, outside of Quarter Paddocks itself. These have been implemented by others and act as a wider complementary comprehensive flood scheme, reduce flood risk for existing residents of Bletchenden Road by providing more in-channel storage and conveyance of flood flows.
- The area around the mobile homes is to be kept as free as possible from natural vegetation and other debris, so that the flow of any flood water will not be impeded.

Residual Risks

- Any local flooding has probably been due to drainage problems rather than flooding from rivers and as such should be easily alleviated.
- any flooding on the site would be slow to rise and should be slow flowing, which would allow an easy escape route to higher ground as outlined by the accurate GPS survey posing no immediate threat to life.

Flood Warning Strategy

- Low risk - Whenever site residents are notified of a Flood Risk, they are to monitor flood risk alerts provided by the Environment Agency, and all EA advice is to be strictly followed.
- Alternatively, site residents will monitor radio broadcasts and adhere with local government announcements.

- High risk – Implement Flood evacuation plan. All touring caravans, trailers and vehicles are to be removed from site and relocated to higher ground at first signs of potential risk.
- 6.44 *Control* - There are no opportunities to improve flood defences as part of the current application.
- b) Proposed finished floor levels suggested within the Flood Risk Management Plan dated 21 July 2022 from Target Carbon Management remain unacceptable due to the flood risk in the area.
- 6.45 *Mitigate* - The NPPG advises to *"Use flood resistance and resilience measures to address any residual risks remaining after the use of the avoidance and control measures..."*.
- 6.46 The applicant's FRA advises that Environment Agency flood risk maps are *"...intended to be indicative and the purpose of a flood risk assessment is to then to confirm or disprove the validity of that informationit cannot be disputed that the overall AOD for the site places it well outside the accepted flood risk area". The FRA goes on to advise that*
- "The Agency has no records of the property itself being subject to flooding...with reference to the 2000 floods it seems clear from local evidence that any surface water arrived as result of local drainage problems rather than true flooding. It is understood that these local drainage problems have now ben resolved"*.
- 6.47 The topographical survey of the site carried out prior to the allowed appeal found that the area in the vicinity of the mobile homes was at least 20.13 AOD. The flood risk assessment states *"It should be noted that at the current time we have not received any definitive flood level predictions of the site from the EA but it should be noted that the height of the mobile homes should have at least 0.5m AOD added to the survey figures". A condition is recommended attached to the current application to ensure that this caravan height is achieved.*
- 6.48 In the consultation response dated 27 June 2022, the Environment Agency advise that the *"...fascia around the bottom of the mobile homes should be free from natural vegetation and other debris so that the flow of any flood water is not impeded"*. The applicant has agreed to meet this request and a planning condition is also recommended to ensure that this takes place.
- c) There is a distance of over 100 metres from the caravan site along the access road where the flood depth will be 150mm. After around 100 metres, the road level rises, and it is only then that dry access can be gained (heading east towards the A274).
- 6.49 The management of residual risk relates to what remains after avoidance, control and mitigation have been utilised. This management relates to safe access and escape routes and adequate flood warnings.
- 6.50 The submitted flood risk assessment highlights in addition to the levels on the application site itself *".... The other important feature is that the escape route from the site climbs very rapidly from the site levels and thus provides a dry escape route in the unlikely event of floodwater entering the site..."*.
- 6.51 As part of the submitted flood risk assessment the applicant has provided a Flood Evacuation Plan. This plan includes a requirement for both existing and future residents to sign up to for the Environment Agency flood warning service. A planning condition is recommended to ensure that the residents sign up to this

service and that the Flood Evacuation Plan is implemented and retained. It is concluded that the current application is acceptable in relation to flooding and flood risk.

PUBLIC SECTOR EQUALITY DUTY

- 6.52 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.
- 6.53 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.
- 6.54 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 Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policies SP17 and DM30 allow for development provided it does not result in harm to the character and appearance of the area. The Council's Regulation 22 Local Plan, although not apportioned much weight at this time, states that there is a potentially significant emerging need for gypsy and traveller accommodation.
- 7.03 The proposal has been assessed in relation to harm to the character and appearance of the countryside and flood risk and found to be acceptable. The development is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.
- 7.04 Although the site is shown as located in flood zone 3 on Environment Agency mapping, the site specific data provided by the applicant suggests that the site is not in an area at risk from flooding.
- 7.05 In assessing the worst case scenario that the site is located in flood zone 3, and whilst the proposal as an extension to an existing use the applicant has conducted a sequential test and an exception test. The proposal provides wider sustainability benefits in terms of provision of accommodation for gypsy's and travellers. In relation to the exception test, a flood evacuation plan and securing the caravans at a height that won't impede floodwater are dealt with by planning condition.
- 7.06 A recommendation of permanent approval is therefore made on this basis, subject to the suggested conditions.

8.0 RECOMMENDATION

GRANT planning permission subject to the following conditions

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2155 P_102 Rev B, Proposed Plans and Elevations, 2155 P_102 Rev A Proposed Site Plan, Design and Access Statement, Flood Risk Assessment (dated 23 May 2022), 2155 P_100 Rev B Site Location Plan, Flood Risk Management Plan (dated 21st July 2022). Reason: For the avoidance of doubt and in the interests of proper planning.
- 2) The site shall not be used as a caravan site by any persons other than Gypsies or Travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 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.
- 3) No more than 3 static caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and 3 tourers, shall be stationed on the land at any one time. The static homes shall be positioned on the site as set out on the submitted drawing 2155 P_102B and the touring caravans shall only be used for the purposes ancillary to the residential use of the static caravans hereby approved. Reason: To safeguard the character and appearance of the countryside.
- 4) If the lawful use of the site ceases, all caravans, structures, equipment and materials brought onto the land for the purposes hereby permitted including hardstandings and buildings shall be removed within two months from the date of the use ceasing. Reason: To safeguard the character and appearance of the countryside.
- 5) No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site at any time. Reason: To safeguard the character and appearance of the countryside.
- 6) No commercial activities shall take place on the land, including the storage of materials. Reason: To prevent inappropriate development; to safeguard the character and appearance of the countryside; and in the interests of residential amenity.
- 7) Prior to the first occupation of the dwelling hereby approved, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles shall be installed and ready for the use of the new occupant with the electric vehicle charging point thereafter retained and maintained operational as such for that purpose. Reason: To promote sustainable travel choices and the reduction of CO2 emissions through use of low emissions vehicles.
- 8) Notwithstanding the provisions of Schedule 2 Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land other than those expressly authorised by this permission (as shown on the approved plans). Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside; and in the interests of residential amenity.
- 9) 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) means of enclosure,
 - b) extent of existing hardstanding and parking.
 - c) the means of foul and surface water drainage at the site.
 - d) existing external lighting on the boundary of and within the site.
 - e) details of existing landscaping and details of soft landscape enhancements
 - f) confirmation that all existing caravans on the site are 0.5 metres above the AOD survey figures.
 - g) details of the measures to enhance biodiversity at the site; and,
 - h) a timetable for implementation of the scheme including a) to g) with all details implemented in accordance with the agreed timetable and all details retained for the lifetime of the development.
- 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.

- 10) The landscaping required by condition 9 (i) (e) shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The landscaping details shall
 - show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed,
 - include a planting specification, implementation details and a [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).

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

- 11) 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.
- 12) 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.

- 13) The enhancement of biodiversity on the site, required by condition 9 shall include the installation of a minimum of one bat tube on the approved mobile home; the provision of gaps in the approved fencing to allow the free movements of wildlife; and the installation of ready-made bird and bat boxes on the site. The development shall be implemented in accordance with the approved details prior to the first occupation of the mobile home hereby approved and all these features shall be maintained as such thereafter. Reason: To enhance ecology and biodiversity on the site in line with the requirement to achieve a net biodiversity gain from all development.
- 14) The approved Flood Risk Management Plan shall be fully implemented within 4 weeks of this approval with all households on the site signed up to the Environment Agency Flood warning service. Reason: In the interests of amenity.
- 15) The new caravans shall be at a height 0.5 metres above the AOD survey figures prior to first occupation and existing caravans shall be at a height 0.5 metres above the AOD survey figures within one month of the date of this permission. All caravans shall be maintained permanently at his height. Reason: In the interests of amenity.
- 16) All hardstanding areas shall be of permeable construction as indicated on drawing P_102B. Reason: In the interests of amenity.
- 17) The Flood Risk Management Plan (dated 21 July 2022) shall be implemented in full prior to the first occupation of the additional caravans (including all site residents registering with the environmental agency flood warning service) and shall be maintained for the lifetime of the development. Reason: In the interests of amenity.