

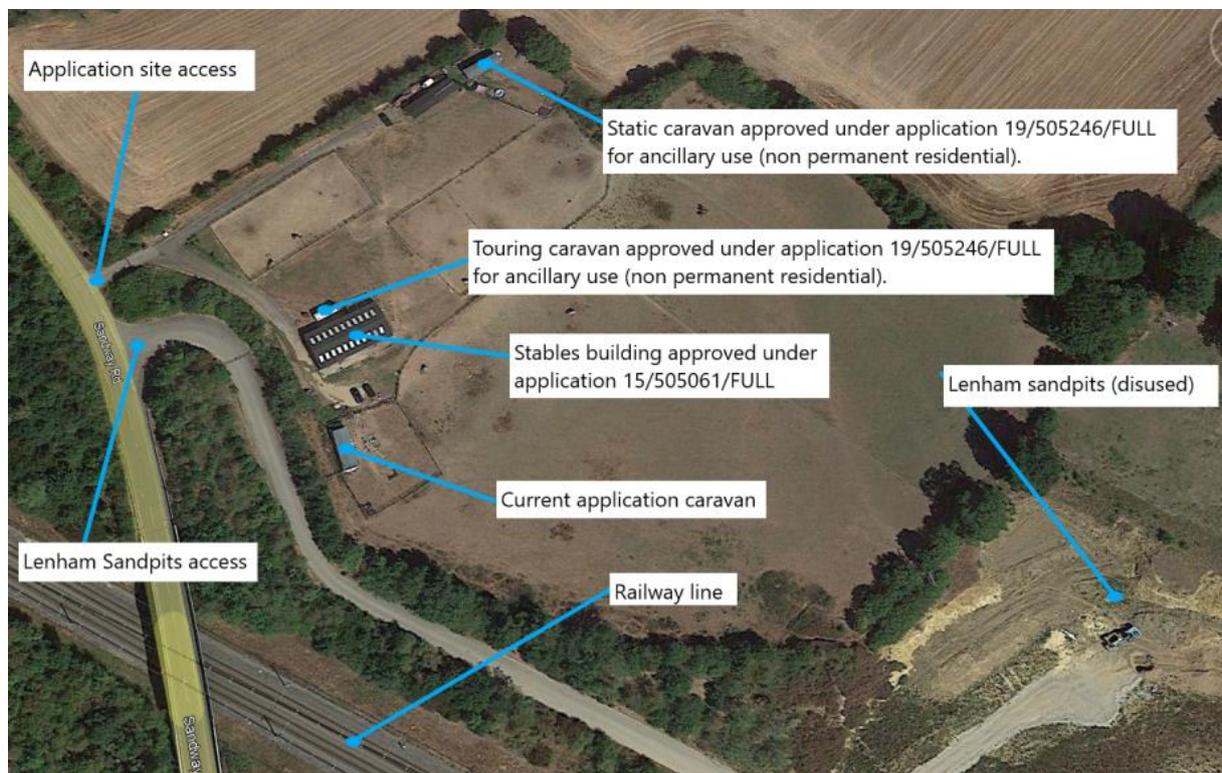
REFERENCE NO – 22/505066/FULL		
APPLICATION PROPOSAL Change of use of land for permanent siting of the mobile home to provide rural worker's accommodation ancillary to the existing business.		
ADDRESS Sunny Hill View Equestrian Stables, Sandway Road, Sandway, ME17 2LU		
RECOMMENDATION GRANT PLANNING PERMISSION subject to conditions subject to the planning conditions in Section 8 of this report		
SUMMARY OF REASONS FOR RECOMMENDATION The level of harm to the character and appearance of the countryside is minimised as: <ul style="list-style-type: none"> • the caravan is screened from most public viewpoints by established boundary vegetation. • the caravan will be seen in the context of the larger stables building • the caravan is lower in height than a two storey dwelling that could be considered in the circumstances. <p>The current application seeks the permanent retention of a rural workers caravan that has been in place for more than 3 years. The application demonstrates a functional and financial need for the dwelling in this countryside location and the application is in accordance with Local Plan policy DM34.</p> <p>A second part of policy SP17 requires development in the countryside to be in accordance with other local plan policies. The relevant policy in this case is DM34 which permits residential accommodation in the countryside for rural workers. The assessment in this report demonstrates that the current application is in accordance with policy DM34.</p>		
REASON FOR REFERRAL TO COMMITTEE Call in from Lenham Parish Council for reasons given in section 4 of this report.		
WARD Lenham and Harrietsham	PARISH COUNCIL Lenham	APPLICANT Mr Paul Collins AGENT Equine Commercial Legal
CASE OFFICER: Tony Ryan	VALIDATION DATE: 09/11/2022	DECISION DUE DATE: 28/07/23
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

- 20/500875/FULL - Creation of outdoor riding arena ancillary to commercial equestrian use of the site. Approved 27.04.2020.
- 19/505246/FULL - Retrospective application for the siting of 1no. additional caravan and 1no. touring caravan ancillary to the commercial equestrian use. –Approved 23.12.2019.
- 19/503697/FULL - Temporary change of use of land (expired 13.09.22) for stationing of static mobile home to be used for residential purposes in association with the business operations of Sunny Hill View Stables. Approved (*Officer comment: approval of permission followed the submission of information on 'need' by the applicant. The current application seeks to make this temporary permission permanent*).

- 15/505061/FULL - Erection of a stable building and laying of hardstanding Approved 26.10.2015
- 14/0549 Certificate of Lawfulness application for the use of land for equestrian purposes

Site context



MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is in the countryside, outside of any Local Plan designated settlement and circa 1.2 km from Harrietsham. The site is to the east of Sandway Road, with the access road to Lenham Sandpits separating the site from the Channel Tunnel Railway Link to the south. The site is in the KCC Minerals Safeguarding Area
- 1.02 The red line application site (0.07 hectares) is on the eastern part of a larger site that is in equestrian use (3.2 hectares: application 14/0549 Certificate of Lawfulness application for the use of land for equestrian purposes) with the level grazing land divided into paddocks. There are currently twelve horses on site of which six are full liveries.
- 1.03 The larger site has landscaping around all boundaries with a wider belt to the east and south. A public footpath (KH414B) runs around the southern boundary of the equestrian use.
- 1.04 The red line application site includes a static caravan (temporary approval under 19/503697/FULL) and an adjacent enclosed amenity area. The stables building to the north was approved under application 15/505061/FULL. 14/0549 Certificate of Lawfulness application for the use of land for equestrian purposes.

2. PROPOSAL

- 2.01 The proposed development seeks the permanent change of use of land for siting of the mobile home (approved for temporary use under application 19/503697/FULL) to provide rural worker's accommodation ancillary to the existing business. The business plan states that the applicants are establishing their own breeding programme to produce horses to 'show' and sell alongside providing a training/livery service for client's horses.
- 2.02 The mobile home has cladded external finishes, UPVC front door and windows and an artificially tiled roof. The application also includes the retention of the amenity area around the mobile home.

Existing caravan



3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017: Policies SS1, SP17, DM1, DM3, DM8, DM30, DM34, DM41

Kent Minerals and Waste Local Plan 2013-30 as amended by Early Partial Review (2020)

Maidstone Borough Council – Local Plan Review

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 2 concluded on the 9 June 2023).

LPRSP14 - Environment

LPRSP14(A) - Natural environment

LPRSS1 - Spatial strategy

LPRTRA2 - Assessing transport impacts

LPRQ&D2 - External lighting

LPRCD3 Accommodation for rural workers

LPRCD7 Equestrian development

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

4. LOCAL REPRESENTATIONS

Local residents

- 4.01 One representation received in support for the following (summarised) reasons:
- the applicants have sought to ensure that the development on site is in keeping with the surrounding area.
- 4.02 One representation received objecting for the following (summarised) reasons:
- The applicants are not the registered owners of the land and there are covenants on the land which prevent permanent homes. *(Officer comment: there is no requirement for an applicant to own the land on which they have submitted a planning application. As covenants are outside the planning system the presence of a covenant does not prevent the granting of planning permission. It a separate decision for the owner of the covenant as to whether they wish to enforce the covenant restrictions).*

Lenham Parish Council

- 4.03 Object due to the unacceptable level of cumulative development on the site and that the number of horses kept on site exceeds the British Horse Safety Guidelines. *(Officer comment: Issues surrounding British Horse Safety Guidelines are not material planning considerations and therefore cannot be considered in the determination of this application. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below).*

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)

KCC Minerals and Waste Planning Policy Team

- 5.01 No objections

Council's Rural Planning Consultants.

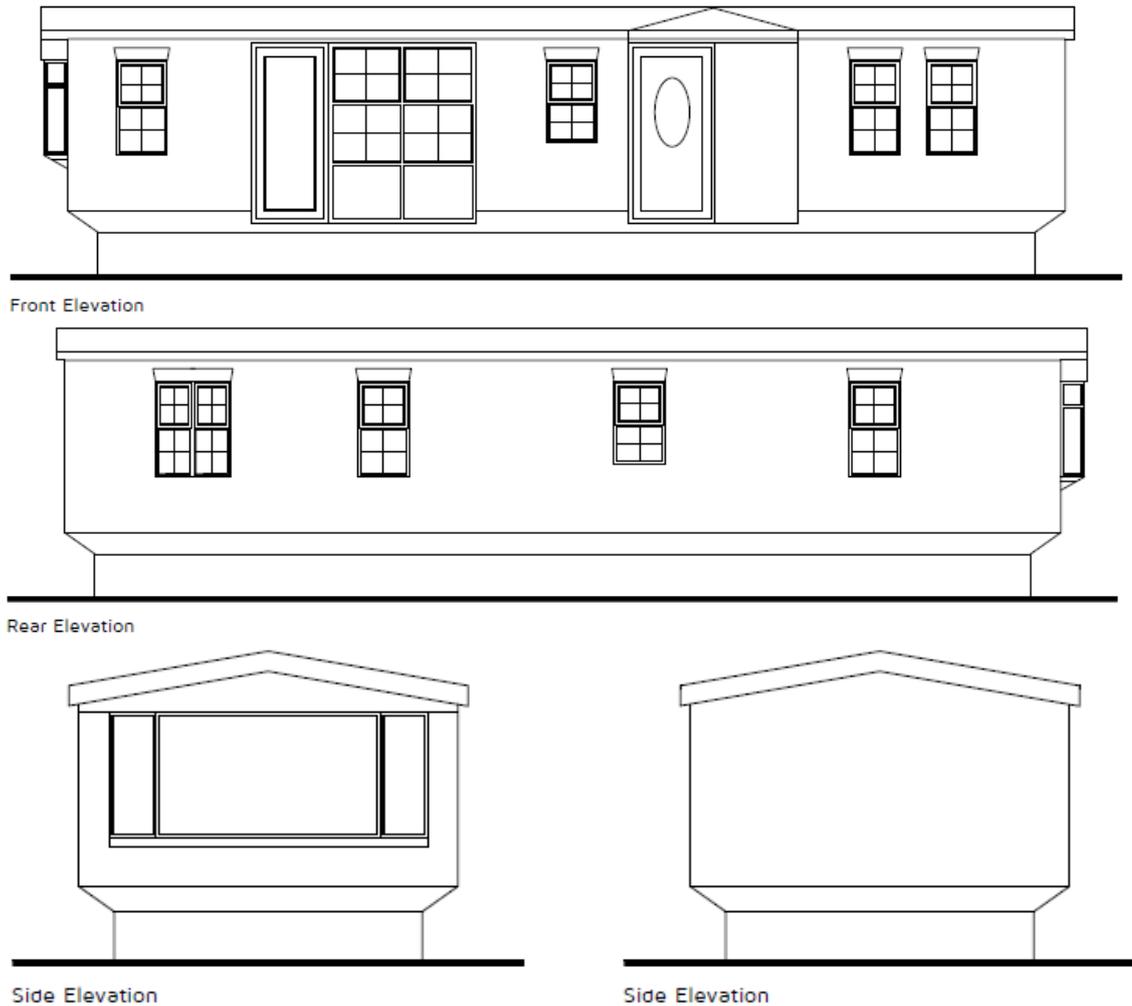
- 5.02 No objections as satisfied that the relevant functional and financial tests have been met.

6. APPRAISAL

Main issues

- 6.01 The key issues are:
- SP17 a) Character and appearance.
 - SP17 b) Accordance with other Local Plan policies
 - Design and appearance
 - Residential amenity
 - Biodiversity
- 6.02 The application site is in the countryside and the starting point for assessment of all applications in the countryside is Local Plan Policy SP17.
- 6.03 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 Local Plan policies

Static caravan elevations



SP17 a) Character and appearance.

- 6.04 In public views from Sandway Road and from the nearby railway bridge to the south, the mobile home is screened by substantial bands of landscaping. The site and the existing static caravan are however visible from public right of way (KH414B) that crosses east to west to the south boundary of the application site.
- 6.05 Policies DM1 and DM30 consider the principles of good design and design principles in the countryside. In longer distance views the application site is generally screened from views because of its location behind mature boundary vegetation especially to the south of the site. It is accepted that views may change in the winter, due to less leaf coverage, but it is not a noticeable change due to the impact of existing sporadic developments in the immediate vicinity of the application site on the landscape.
- 6.06 The supporting text to Policy SP17 advises "*The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake*". In this context, even if completely screened from public viewpoints, the mobile home would still result in harm to the intrinsic character of the countryside.
- 6.07 The level of visual harm in this case is minimised as the caravan will be seen in the context of the larger stables building and as the caravan is lower in height than a two storey dwelling. With the location of the footpath, the harm to intrinsic character and to reduce the harmful impact of domestic paraphneilia in rural

locations from a permanent planning permission (current temporary permission has expired) a planning condition is recommended seeking landscape planting.

- 6.08 Policy SP17 states that development proposals in the countryside will not be permitted unless they accord with other Local Plan policies. Policy SP17 thereby accepts a degree of countryside harm in the specific circumstances set out in other Local Plan policies. Policy DM34 is relevant and assessed below.

SP17 b) Accordance with other Local Plan policies

- 6.09 Local Plan policy DM34 accommodation for agricultural and forestry workers is relevant to this application. In applying policy DM34 references to agricultural and forestry workers also include all other rural workers.

DM34 (Accommodation for agricultural and forestry workers).

- 6.10 The supporting text to DM34 advises "*...residential development in the countryside may be justified when there is an essential need for a rural worker to live permanently at, or in the immediate vicinity of, their place of work*".

- 6.11 The supporting text goes to advise that if a new dwelling is essential "*... it should normally be provided by a caravan or other temporary accommodation for the first three years. This is to ensure that the enterprise is viable and to prevent the retention of unnecessary built development within the countryside*".

- 6.12 In September 2019 a temporary 3 year planning permission (19/503697/FULL) was granted on the application site for "*... stationing of static mobile home to be used for residential purposes in association with the business operations of Sunny Hill View Stables*".

- 6.13 The officer report assessing 19/503697/FULL provides comments from the Agricultural Advisor "*The submitted details include references to the applicant's equestrian background, and...details of financial budgeting, over 3yrs, with figures that suggest (even allowing for a degree of over-optimism) a prospect of a sufficient livelihood for a full-time worker. Report also explains the livery venture has now commenced, with 5 full-time liveries. my advice would be that the applicants have now provided sufficient financial and functional justification for the mobile home to meet the relevant policy tests.*

- 6.14 The process set out in policy DM34 is that after three years when the need for the residential accommodation has been proven and there is evidence that the business is viable an application for a permanent dwelling can be made. Proposals for permanent accommodation are required to meet the list of criteria set out in DM34 (3) and these criteria are set out in turn below:

- Clearly established existing functional need for the dwelling

- 6.15 The functional test requires assessment as to the specific need for a new dwelling in the countryside in connection with a rural enterprise and for a 24 hour site presence. In granting temporary permission under reference 19/503697/FULL, the Council previously accepted that the functional test had been met.

- 6.16 A statement in support of the current application from the agent (BSc Equine Welfare with Business Management, LL Dip Law degree and PgC Agricultural Law) provides the following information:

- "*...currently 12 horses on site, ranging from in foal breeding mares, foals, youngstock and riding horses. Six of these are owned by clients*".
- "*...the number and particularly the type of horses on site creates a functional need for 24-hour supervision*"

- *"The breeding mares need close supervision prior to foaling, both for their own welfare and that of their foals. The mares are put in foal again shortly after foaling. The foals continue to need close supervision and are then weaned"*
- *"Without constant monitoring the welfare of such horses could be seriously compromised. Horses stabled for long periods are predisposed to developing colic, becoming cast, or choking, all of which require immediate attention".*
- *"If any horse belonging to a client suffered an injury or illness that was not identified sufficiently early, confidence in the business would be severely undermined. A client would not return their horse to the yard. This would seriously impact on the viability of the enterprise"*
- *"The provision of skilled supervision around the clock is essential, not only for the welfare of the horses, but to ensure the continuation of the business. It is imperative that clients have complete confidence in the supervision of their horses at all times"*

6.17 After consideration of submitted information, it is concluded that the functional test for a 24 hour presence provided by a dwelling on the site has been met. In line with policy DM34 there is a clearly established existing functional need for the dwelling on this site for a rural worker.

- Need relates to a full-time worker or one who is primarily employed in agriculture and does not relate to a part time requirement

6.18 In granting the 3 year temporary planning permission, and with 11 horses on site the delegated report for 19/503697/FULL concluded *"The proposal has justified the essential need for a full-time worker to be on site (and not elsewhere) for the efficient development and running of the rural enterprise"*.

6.19 It is concluded after assessment of the current situation, that the operation of the site (that now accommodates 12 horses) includes a need for a full time worker.

- Unit and the agricultural or forestry activity have been
 - a) established for at least 3 years,
 - b) profitable for at least one of the 3 years,
 - c) are currently financially sound, and
 - d) have a clear prospect of remaining financially sound.

6.20 In relation to point a) the evidence provided as part of both planning applications demonstrates that the equestrian use on the application site has been established for over 3 years.

6.21 In relation to points b), c) and d) the applicants have submitted financial information as part of the current application. The submitted information has been considered by the Council's Rural Planning Consultants.

6.22 The submitted information shows that the enterprise made a net profit in the three financial years of 2019/20, 2020/21 and 2021/22. After considering the submitted information and advice from the Council's Rural Planning Consultants. it is concluded that the enterprise is currently financially sound and with projections has a clear prospect of remaining financially sound.

- The functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the worker concerned.

6.23 The current planning application seeks the permanent retention of the caravan (in full time residential occupation) that received a three year temporary permission under application reference 19/503697/FULL.

- 6.24 The separate planning permission (19/505246/FULL) in December 2019 was for the siting of an additional caravan and a touring caravan on the wider equestrian site. In *Wealden District Council v SSE and Colin Day 1987* it was concluded that a caravan could represent an ordinary piece of equipment on an agricultural unit. No reason was found in this case why uses such as storing and mixing of feed, some office work and the taking of shelter could not be carried out in such a caravan and as a result this ruling found the caravan ancillary to the agricultural use of the land.
- 6.25 The officer report for 19/505246/FULL noted that the caravan was "...for the storage of items needed to run the onsite business; and for the occasional overnight stay when necessary for staff if horses cannot be moved from the top field shelter and close supervision is essential...". In this context these caravans are ancillary to the wider equestrian use and are not available for the permanent residential occupation provided by the current application.
- The new dwelling is no larger in size than is justified by the needs of the enterprise or more expensive to construct than the income of the enterprise can sustain.
- 6.26 The initial three year temporary period set out in policy DM34 for a rural workers dwelling is intended to provide evidence of the stability of a rural business. Now at the end of this three year period, a bricks and mortar dwelling on the application site could be acceptable under policy DM34 subject to the assessment of other issues.
- 6.27 The current application does not seek a bricks and mortar dwelling but the permanent retention of the existing caravan. It was previously accepted that the size of the caravan was appropriate to the needs of the equestrian use and there has been no change in circumstances that would alter this conclusion.
- 6.28 The proposal has justified the essential need for a full-time worker to be on site (and not elsewhere) for the efficient development and running of the rural enterprise; there is clear evidence the enterprise has been planned on a sound financial basis and there is firm intention and ability to develop it; there are no other suitable buildings on the site to convert; and the development is sited close to the main stable building, containing the spread of development in the site.

Residential amenity

- 6.29 Policy DM1 encourages new development to respect the amenities of neighbouring properties and provide adequate residential amenities for future occupiers by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity, or vehicular movements, overlooking or visual intrusion. In terms of orientation and separation distances the proposed house will not have a harmful impact on residential amenity of neighbours.

Trees and landscaping and biodiversity

- 6.30 Policy DM1 sets out that proposed development should respond to the location of the site and sensitively incorporate natural features such as such as trees, hedges worthy of retention within the site. The NPPF (para 174) states that planning decisions should contribute to and enhance the natural and local environment providing net gains for biodiversity, and (para 180) opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.31 It is recommended that planning conditions are attached to this permission that require new landscape screening and biodiversity enhancement to the undertaken.

Other matters

- 6.32 The application site is located within an area that, according to information provided by the Environment Agency, is of 'very low risk' of both fluvial and surface water flooding. Very low risk means that this area has a chance of flooding of less than 0.1% each year.
- 6.33 No objections have been raised by Waste and Minerals Planning Policy Team and no comments have been received with regards to the impact upon highways.
- 6.34 The application site is not in the Stour River catchment area and not in the catchment area of Lenham wastewater treatment works (which in turn discharges into the Stour River catchment). The current application in addition does not include additional overnight accommodation. In this context it is concluded that the application does not require screening under the Habitat Regulations and, consequently, the undertaking of an Appropriate Assessment

PUBLIC SECTOR EQUALITY DUTY

- 6.35 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

7. CONCLUSION

- 7.01 The level of harm to the character and appearance of the countryside is minimised as:
- the caravan is screened from most public viewpoints by established boundary vegetation.
 - the caravan will be seen in the context of the larger stables building
 - the caravan is lower in height than a two storey dwelling that could be considered in the circumstances.
- 7.02 The current application seeks the permanent retention of a rural workers caravan that has been in place for more than 3 years. The application demonstrates a functional and financial need for the dwelling in this countryside location and the application is in accordance with Local Plan policy DM34.
- 7.03 A recommendation of approval of the application is therefore made on this basis.

8. RECOMMENDATION GRANT PLANNING PERMISSION subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of the permission. Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - Site Location Plan
 - Site/block plan
 - Planning Statement prepared by Equine Commercial Legal (September 2022)
 - Drawing No. DHA/13192/04 dated August 2018 (Proposed Mobile Home Elevations)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents.

- 3) No more than one static mobile home and 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 external amenity areas shall be laid out and the static mobile home shall be stationed only in the positions shown on the plan (site/block plan) hereby approved. Reason: To safeguard the visual amenity, character, and appearance of this countryside location.
- 4) 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.
- 5) The use hereby permitted shall cease and the caravan, 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) existing external lighting on the boundary of and within the site.
 - d) details of existing landscaping and details of soft landscape enhancements
 - e) details of the measures to enhance biodiversity at the site; and,
 - g) a timetable for implementation of the scheme including a) to d) 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.
- 6) The landscaping required by condition 5 shall be designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012). 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 include a plant specification, implementation details, a maintenance schedule and a [5] year management plan.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development
- 7) All landscaping approved under condition 5 shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any

trees or plants which, within five years of 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 unless the local planning authority gives written consent to any variation.

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

- 8) The biodiversity enhancement required by condition 5 shall include integrated methods into the design and appearance of the building structure (where possible) by means such as swift bricks, bat tube or bricks and additionally through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgerow corridors. Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- 9) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The submitted details shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011 (and any subsequent revisions) and follow the recommendations within Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting', and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter. Reason: To safeguard the character and appearance of the countryside and in the interests of residential amenity.