

REPORT SUMMARY

REFERENCE NO: - 22/502412/FULL		
APPLICATION PROPOSAL: Retrospective application for two mobile units and a utility block for traveller use.		
ADDRESS: Plot 1 Peacock Farm Chart Hill Road Chart Sutton Maidstone Kent ME17 3EX		
RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION: The development is acceptable regarding the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
REASON FOR REFERRAL TO COMMITTEE: Call in from Chart Sutton Parish Council for the reasons set out in Section 4 of this report.		
WARD: Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL: Chart Sutton	APPLICANT: Mr and Mrs Lee AGENT: Martin Potts Associates
CASE OFFICER: William Fletcher	VALIDATION DATE: 25/05/22	DECISION DUE DATE: 29/03/24
ADVERTISED AS A DEPARTURE: No		

Relevant planning history

Application site

21/501804/FULL (Plot 1 Peacock Farm) Retrospective application for two mobile units and a utility block. Refused 28.05.2021 for the following reasons:

1. *The application site is outside of any settlement as defined in the Maidstone Borough Local Plan 2017. The proposal would result in the creation of an unsustainable form of housing development with future occupants reliant on private vehicle use to gain access to goods, services and facilities and, as such the proposal would be contrary to policies SS1 and SP17 of the Maidstone Borough Local Plan 2017 and guidance within the National Planning Policy Framework 2019.*
2. *The development, by virtue of its scale, design and layout, and associated domestic paraphernalia would harmfully consolidate sporadic and urbanising development in the countryside, causing unacceptable harm to the character and appearance of the area hereabouts. The proposal therefore represents poor design, for which there is no overriding justification for, contrary to policies SP17, DM1, DM15 and DM30 of the Maidstone Local Plan (2017); and the aims of the National Planning Policy Framework (2019).*

(Officer Note: This application was not for gypsy and traveller accommodation so was not assessed under policy DM15 the exception policy to SP17 regulating Gypsy and Traveller development in the countryside. The current application from a different applicant is for Gypsy and Traveller accommodation)

Neighbouring land

07/2227 - (on land now Plot 5 Peacock Farm) Retrospective change of use from agricultural to residential for gypsy family including the stationing of one mobile home and one touring caravan. Permitted 26/06/2008.

21/501800/FULL (Plot 5 Peacock Farm) Retrospective application for stationing of two additional mobile homes and erection of a utility block. Refused 27.05.2021 (*Officer Note:*

This application was not for gypsy and traveller accommodation so was not assessed under policy DM15 the exception policy to SP17 regulating Gypsy and Traveller development in the countryside.)

21/503283/FULL (Plot 2 Peacock Farm) Continued stationing of 1no. mobile home for occupation by a gypsy or traveller and retention of associated outbuilding and decking area (retrospective). Approved 15.09.2021.

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is in the countryside on the west side of Chart Hill Road. The site is at the end of a long access from Chart Hill Road.
- 1.02 The application site is one plot at the northern end of a larger group of five existing gypsy and traveller plots (plots 1 to 5) that share the vehicle access from Chart Hill Road. The applicant's existing layout plan shows 5 mobile homes and 2 utility blocks on plots 2 to 5. On the application site (Plot 1) there is currently a large barn, utility block and two mobile homes.
- 1.03 The applicant has advised that the application site has had several previous uses that include a scrap yard. The applicant advises that as part of a second use "...old horses were processed inside the barn and buried elsewhere on the land".
- 1.04 Mature hedgerows on the west and south boundaries of the five plots act as substantial screens from the surrounding countryside. To the north and east there is an embankment with a timber retaining structure measuring approximately 1.8m with a 1.2m high cut post and rail fence on top, making this part of the site invisible from the road.
- 1.05 The site is within Flood Zone 1. The site is also more than 50m away from any Ancient Woodland and Local Wildlife sites. The site is adjacent to the Low Weald Landscape of Local Value.

Application Site (08/05/2022) (Red Line added by case officer)



2. PROPOSAL

- 2.01 There are currently two mobile homes on the site that do not have planning permission. The current proposal is to:
- retain one of the existing caravans (retrospective),
 - to replace one of the mobile homes (which is derelict) with a larger version in the same location (proposed), and
 - construction of a new utility building (proposed).
- 2.02 The two caravans and utility building would be sited behind (east) of the existing metal barn. The application form indicates the external walls of the mobiles would be 'render' with a felt/tiled roof and uPVC windows. The dimensions would be 13.5m by 5.5m (74m²) in area with shallow gable ended roofs and would be some 4m in height.
- 2.03 The utility building would measure some 12m by 5.4m in footprint (66m²); with a gable ended roof 4m in height from its ridge to ground level. Its eaves would be some 2.6m in height. The mobiles would provide accommodation for the applicant, as well as his sister and siblings. The application is for gypsy and traveller accommodation.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan (2011-2031):

SS1 - Spatial strategy
SP17 - Countryside
DM1 - Principles of good design
DM3 - Natural environment
DM15 - Gypsy, Traveller and Travelling Showpeople accommodation.
DM30 - Design principles in the countryside

Local Plan Review:

On 8 March 2024, the Council received the Final Report on the Examination of the Maidstone Borough Local Plan Review prepared by the Planning Inspector. The Inspector's Report concludes that the Maidstone Borough Local Plan Review is sound, subject to the main modifications being incorporated.

Following publication of the March committee papers, the next stages for the LPR are the Planning, Infrastructure and Economic Development Policy Advisory Committee on the 18 March 2024 and Cabinet on the 19 March 2024. It is anticipated that Council adopts the LPR on 20 March 2024.

If adopted on the 20 March 2024, at the time of the subsequent March planning committee meetings, LPR policies will carry 'substantial' weight but not 'full' weight. LPR policies will only carry 'full weight' 6 weeks after the date of adoption (judicial review period). 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
LPRQ&D 7: Private amenity space standards

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (2023) (PPTS)
Maidstone Landscape Character Assessment (amended 2013)
Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2012)

National Planning Policy Framework (NPPF): Achieving well-designed places.
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local residents:

4.01 No representations received from residents.

Chart Sutton Parish Council:

4.02 Objection for the following reasons:

- Designated open countryside where growth for residential development is restricted.
- Over intensification of the site, which is currently resembling a small hamlet.
- Original permission (07/2227) was only for one mobile home and one touring caravan at any one time.
- Wish application to be reported to committee if officers are minded to approve.

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 Highways:

5.01 No objections - consultee replied with standing advice.

Environmental Protection

5.02 No objections subject to conditions.

KCC Ecology

5.03 No objection, subject to conditions

MBC Landscape

5.04 No objection. Any planting in this countryside location should be native and be consistent with the Maidstone Landscape Guidelines.

6. APPRAISAL

6.01 The key issues for consideration relate to:

- Policies SP17/LPRSP10C and DM15/LPRHou 8 (countryside, highways, flooding, landscape & ecology).
- Need and supply of sites.
- Gypsy status.
- Residential amenity

SP17/LPRSP10C and DM15/LPRHou 8 (countryside, highways, flooding, landscape & ecology)

- 6.02 The application site is in the countryside and the starting point for assessing all applications in the countryside are LPRSP9 and adopted policy SP17. Adopted policy SP17 states that development proposals in the countryside will only be permitted where:
- a) there is no harm to local character and appearance, and
 - b) they accord with other Local Plan policies
- 6.03 Policy SP17 does not specify an acceptable level of harm to local character and appearance, and all proposals in the countryside are likely to result in some degree of harm. In this context all development outside the designated settlements does not accord with this part of SP17. LPRSP9 says the same as adopted policy SP17 with qualification of the level of harm i.e. " ...there is no 'significant' harm to local character and appearance". The current application will not result in a 'significant' level of harm to the countryside.
- 6.04 In specific circumstances where there is locational need for development (equestrian, rural worker dwelling, agricultural buildings etc) other LPR and adopted Local Plan policies permit development in the countryside subject to listed criteria. If development accords with one of these other Local Plan policies, this compliance generally outweighs the harm caused to character and appearance with a proposal found in accordance with LPRSP9 and adopted policy SP17 overall.
- 6.05 In this case, LPRSP10C 1 (ii) and adopted policy DM15 accepts that new Gypsy and Traveller accommodation will be in the countryside and lists 5 criteria that planning applications will be assessed against. These criteria are considered below:
- LPRSP10C 1 (ii) / DM15 (i). Local services, in particular school, health and shopping facilities, are accessible from the site preferably on foot, by cycle or on public transport.
- 6.06 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*".
- 6.07 Whilst the local plan does not provide a definition of what distance is considered 'close' to a settlement, from the application site it is a 5 minute (1.8 miles, source: Google Maps) car journey to the Kings Head in Sutton Valence (Sutton Valence is a local plan designated 'larger village'). Chart Sutton Village Hall is a 3 minute car journey (1.2 miles, source: Google Maps) from the site.
- 6.08 Although the occupants of the site would be largely reliant on private motor vehicles to access local services and facilities, this is not untypical of Gypsy and Traveller sites in rural locations. Although not highly sustainable in respect of location, the site is not so far removed from basic services and public transport opportunities as to justify refusal.
- 6.09 In addition, it is highlighted that the application site is immediately adjacent to previously permitted Gypsy and Traveller accommodation under references 07/2227 (one mobile home and one touring caravan) and 21/503283/FULL (one mobile home and outbuilding).

LPRSP10C 1 (iv)/ DM 15 ii. The development would 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 is well screened by existing landscape features and there is a reasonable prospect of such features' long term retention; Additional planting should be used to supplement existing landscaping but should not be the sole means of mitigating the impact of the development.

- 6.10 The Maidstone Landscape Character Assessment advises that the site lies within the Low Weald Landscape Character Area, specifically within the Linton Park and Farmlands area. The Low Weald Landscape of Local Value (LLV), for the purposes of the Local Plan, is a landscape that is in very good condition and high sensitivity, recognised as having distinctive landscape features: Enclosed pasture, scattered farms, and small hamlets dominance of oak trees within pasture and as mature hedgerow trees.
- 6.11 Where Gypsy and Traveller developments are normally permitted, it is based on being screened by existing permanent features such as hedgerows, tree belts, buildings, or land contours, as required by policy DM15 of the adopted Local Plan. Consequently, unless well screened or hidden away in unobtrusive locations, mobile homes are normally considered unacceptable in their visual impact.
- 6.12 The mobile homes are of a typical style and appearance and appear to fall within the definition of a caravan (Section 29 of the Caravan Sites and Control of Development Act 1960); the materials proposed are typically found on mobile homes on Gypsy and Traveller Sites.
- 6.13 The application site location behind other parcels of land where mature boundary vegetation exists, resulting in the application being screened on four sides. The application site and nearby Gypsy and Traveller sites are not easily recognised, if at all. It is accepted that views may change in the winter, due to less leaf coverage, but it is not considered a noticeable change due to the impact of existing sporadic developments in the immediate vicinity of the application site, including other lawful Gypsy and Traveller sites, on the landscape. Conditions are recommended seeking the submission of a landscape scheme. Overall, given its small scale, the harm is found to be localised with no significant medium to long range impact.
- 6.14 Assessing the visual harm of the application, the site is a substantial distance from Chart Hill Road (more than 100m) and benefits from a good level of natural screening in the form of hedgerows, trees and is also located at a lower ground level.
- 6.15 Glimpses into the site are mainly through the vehicle access. With sufficient set back and the metal frame barn which restricts views the site the proposal would not appear visually prominent from Chart Hill Road or at the entrance to the site. To further safeguard the amenity of the surrounding landscape, external lighting can also be restricted by way of condition.
- 6.16 LPRSP10C and adopted policy DM15 advises that applications need to be assessed in relation to "Cumulative effect - the landscape impact arising as a result of the development in combination with existing lawful caravans". The information in the preceding parts of this report, including the planning history section, have set out the planning history of adjacent sites.
- 6.17 The landscape impact of the proposal has been assessed above and it is concluded that the landscape harm that occurs because of the development is not grounds for refusal of permission. Were the nearby caravans removed and returned to agricultural fields, the application site would remain low key when viewed from Chart Hill Road. The current submitted proposal for two mobile homes, and utility building 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.

- 6.18 It is acknowledged that the development would cause some harm to the character and appearance of the countryside, but in landscape terms the proposal is in accordance with Local Plan policy DM15 with this harm (including cumulative harm) not found to be significant. In visual amenity terms, the development is in accordance with relevant policies of the Local Plan and the aims of the NPPF.

LPRSP10C 1 (v)/ DM15 iii. The site can be safely accessed to and from the highway by all vehicles using the site on a regular basis.

- 6.19 LPRSP10C 1 (v) and adopted policy DM1 states that applications must ensure that development does not result in, amongst other things excessive activity or vehicle movements. 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.

- 6.20 There are no highway issues with the existing access which is suitable for the extra demand from this application. It is concluded that the vehicle movements resulting from the application can easily be accommodated on the local road network. There is sufficient parking/turning provision on the site.

- 6.21 NPPF guidance states that "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*" (NPPF para 111). The current application does not meet these tests with no highway safety impact found and no severe impact on the highway network present. KCC Highways have no objections to the application.

LPRSP10C 1 (vi)/DM15 iv. The site is not located in an area at risk from flooding (zones 3a and 3b)

- 6.22 The site lies within Flood Zone 1, consequently flooding is not an issue. A planning condition will be imposed to secure permeability of site hardstanding and assist in surface water drainage.

- 6.23 Further details of the provision of potable water and how foul sewage will be dealt are to be secured by way of condition (including the size of any septic tank or cesspool and where it will overflow to).

LPRSP10C 1 (vii)/ DM15 v. The ecological impact of the development has been assessed through appropriate survey and a scheme for any necessary mitigation and enhancement measures confirmed.

- 6.24 LPRSP14A and adopted policy DM3 of the Maidstone Borough Local Plan and the NPPF directs the planning system to contribute to and enhance the natural and local environment.

- 6.25 There are existing caravans and hardstanding areas on the application site with the retained boundary hedgerows providing the most valuable existing habitat. A planning condition is recommended to secure biodiversity enhancement through bird and bat boxes and new landscaping on the site. On this basis, the proposal would accord with LPRSP14A and DM3 and LPRSP10C DM15 and the NPPF (2023). These policies jointly direct the planning system to contribute to and enhance the natural and local environment.

- 6.26 The proposed utility block is of a scale and form that respects its setting and in accordance with the LPR requirement (LPRSP10C (3)) relating to outbuildings and dayrooms.

Need and supply of sites

- 6.27 The Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 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, the GTAA is now over 12 years old and because of its age, little weight can be attached to this document.
- 6.28 Importantly, in the Meadows appeal decision (APP/U2235/C/18/3210851 and others), dated 17 March 2023, the Inspector concluded that the 2012 GTAA does not represent a robust and accurate assessment of need within the Borough. Into the future, the Inspector found that evidence points to an existing shortfall of sites and a shortfall in the supply of 5 years’ worth of deliverable sites. At the same time, the Council accepted the need for pitches over the plan period to 2037, is likely to be significant.
- 6.29 The Local Plan Review (LPR) examination in public commenced on the 6 September 2022 (Stage 2 hearing concluded mid-June 2023). Whilst the LPR may be adopted at the time of the March planning committee meeting, the LPR will carry substantial but not full weight at this stage due to a judicial review period. Furthermore, the Council has chosen to separate the matter of gypsy and traveller policy from the LPR and is pursuing a separate Development Plan Document (DPD) on this matter.
- 6.30 The updated Gypsy, Traveller, and Travelling Showpeople Accommodation Assessment (GTAA), which forms part of the evidence base for the Gypsy, Traveller and Travelling Showpeople DPD, was published in September 2023. It provides the evidence of the current and future need for gypsy, traveller and travelling showpeople in the borough for the Local Plan Review until 2040.
- 6.31 The GTAA published in 2023 outlines a need for 340 pitches in Maidstone that met the planning definition between 2023 and 2040, broken down as follows:

	2023-27	2028-32	2033-37	2038-40	2023-40
Gypsy & Traveller Pitches	205	48	53	34	340

- 6.32 In addition, the DPD will be informed by the outcome of a Pitch Deliverability Assessment and a targeted Call for Sites exercise to identify potential new sites so the needs of the community can be adequately, and appropriately addressed and appropriate engagement can take place.
- 6.33 The LPR Call for Sites exercise ran from February and March 2022 and February and March 2023, with the aim of comprehensively addressing the needs of the community appropriately. The Gypsy, Traveller and Travelling Showpeople DPD is at its early stages and is not due to be adopted until 2025 at the earliest.
- 6.34 The PPTS requires Local Plans to identify a supply of 5 years’ worth of deliverable sites against the Plan’s pitch target. The Council’s 5-year supply comprises:
 - unimplemented Local Plan 2017 (Policy GT1) allocations which are to be carried forward.
 - an allowance for pitch turnover on the two public Gypsy & Traveller sites in the borough.
 - a windfall allowance for pitches which will be granted planning permission in the future.
- 6.35 The Council are not able to provide a supply of specific deliverable sites sufficient to provide five years’ worth of sites against locally set targets. The Council’s current position is that it can demonstrate a 1.2 years’ worth of deliverable pitches.

- 6.36 Paragraph 27 of 'Planning policy for traveller sites (2023) states: *"If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt... [or]an Area of Outstanding Natural Beauty[national landscape]"*.

Gypsy status

- 6.37 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.
- 6.38 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".
- 6.39 The Secretary of State 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 at paragraph 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"*. at paragraph 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..."*
- 6.40 The applicant Mr Lee travels as part of his cultural heritage and is of traveller descent, he, and his family attend two to three fairs annually prior to the pandemic. Mr Lee is living with his partner and their two young children and wish to settle in this site for their school aged children who the elder child aged 4 is enrolled on a full-time basis at a local primary school. The family are unable to live in a flat as it would be contrary to the family's cultural identify and nomadic lifestyle and not in their best interests. They began staying at the application site in December 2020.
- 6.41 The second mobile on site would be occupied by Mr Lees sister and her siblings. With regards to the status of the occupants, their land-use needs relate to their ethnicity. It would be considered discriminatory to exclude them from the Government's definition just because they are no longer able to travel (Smith v Secretary of State for Levelling Up, Housing and Communities & Anr. Case Number: CA-2021-001741). In this instance, it is concluded that the desire and need to have a strong family unit on the site, outweighs their exclusion from the Government's definition above (considering Article 8 Human Rights Convention).
- 6.42 A letter from the Gypsy Cooperative submitted with the planning application states that the occupiers of the caravans are from the Romany Gypsy community.
- 6.43 Based on the evidence available it can reasonably concluded that the occupants are of Gypsy heritage and are from the travelling community. A condition is recommended to ensure that the site shall not be used as a caravan site by any persons other than Gypsies or Travellers and their family and/or dependants, as defined the Planning Policy for Traveller Sites 2023.
- 6.44 In awarding costs against the Council as part of a recent appeal on this issue at Pear Paddock the appeal Inspector sets out: *"The Council's second reason for refusal complains that the appellants (then the applicants) have not demonstrated that the proposed site occupants are Gypsies or Travellers. Yet there is nothing in*

the relevant policy that requires a personal demonstration of need or ethnic identity. It is not as though any housebuilder is required to tell the LPA who exactly is intended to live in the houses s/he proposes to build; concomitantly, there is no such requirement here".

- 6.45 With this background and the common use of planning conditions to restrict occupation of relevant sites to Gypsies or Travellers, the refusal of planning permission on the grounds that Gypsy status has not been proven would be unreasonable.

Residential amenity

- 6.46 LPRSP15 and adopted 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".
- 6.47 The application site is a small plot of land at the norther end of a larger area of Gypsy and Traveler accommodation. The proposal would maintain acceptable separation distances from existing mobile homes, and this will avoid any adverse effect in terms of overshadowing, loss of light, outlook, or privacy.
- 6.48 The closest 'immediate neighbours' (house) at Lambs Cross Farm are separated from the application site by a distance of circa 118 metres to the east. This distance includes boundary hedging. In these circumstances the proposal is acceptable in relation to overshadowing, loss of light, outlook, and privacy. The proposal would retain the existing access point and the caravans provide sufficient amenity for the occupiers.
- 6.49 The proposals are acceptable in terms of maintaining the living conditions of neighbouring occupiers and providing suitable amenity for occupiers of the caravans. The proposal is in accordance with policy DM1 of the Maidstone Borough Local Plan and LPRQ&D7 in relation to external amenity space.
- 6.50 The Planning Policy for Traveller Sites 2023 (PPTS) advises "*When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community*" (paragraph 14).
- 6.51 The application 'site' includes a single Gypsy and Traveller pitch (2 mobile homes and a utility building). When added to the nearby sites listed in this report there will be a total of 5 pitches (7 mobile homes and 3 utility blocks) it is not considered that the scale of the application 'site' itself or taken with nearby sites would dominate the nearest settled community Chart Sutton.

7. PUBLIC SECTOR EQUALITY DUTY

- 7.01 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.
- 7.02 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.
- 7.03 This application has been considered in respect of the protected characteristics of the applicant and the gypsies and travellers who occupy the caravans. I am satisfied that the requirements of the Public Sector Equality Duty have been met and it is considered that the application proposals would not undermine objectives of the Duty.

7.04 Due regard has been had to the Public Sector Equality Duty 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 Public Sector Equality Duty.

8. COMMUNITY INFRASTRUCTURE LEVY

8.01 The proposed development is not liable for Community Infrastructure Levy (CIL)

9. CONCLUSION

9.01 Local Plan policy DM15 allows for Gypsy and Traveller accommodation in the countryside provided certain criteria are met. Policies SP17 and DM30 allow for development provided it does not result in harm to the character and appearance of the area.

9.02 The GTAA published in 2023 outlines a need for 340 pitches in Maidstone and the Council's current position is that it can demonstrate a 1.2 years' worth of deliverable pitches on 1st April 2023.

9.03 The proposal has been assessed in relation to its visual and landscape impact, highways impact, sustainability, residential amenity, and flooding / drainage and found to be acceptable. The development is acceptable regarding the relevant provisions of the LPR, the Development Plan, the NPPF and all other material considerations such as are relevant. For the reasons set out above, it is recommended that permission be granted.

10. RECOMMENDATION

GRANT PLANNING PERMISSION subject to 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:

- Application for planning permission
- Site Location Plan
- P993/1 Existing Site Plan
- P993/2 Proposed Site Plan
- P993/3 Proposed Utility Block Plan and Elevations
- P993/4 Proposed Plan and Elevations
- P993/5 Existing Plan and Elevations
- Cover Letter
- Gypsy Cooperative Letter
- Design and Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

2) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as 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 or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted.

3) No more than four caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than two caravans shall be mobile homes/statics) shall be stationed on the land at any time. The mobile homes shall be positioned on the site as set out on the submitted drawings and the utility block shall only be used for the purposes ancillary to the residential use of the mobile home 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 bought 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 vehicle over 3.5 tonnes shall be stationed, parked, or stored on the land and no commercial or business 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.
- 6) 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.
- 7) 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 within 6 weeks of the date of the 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) extent of existing hardstanding and parking areas, including a schedule for the complete removal from the land of all hardstanding areas shown as soft landscaped areas.
 - b) the means of foul and surface water drainage at the site, along with details regarding the provision of potable water and waste disposal.
 - c) existing external lighting on the boundary of and within the site.
 - d) details of existing landscaping
 - e) details of proposed landscaping including the planting of 0.22ha of mixed scrub spread.
 - f) details of measures to enhance biodiversity at the site; and,
 - g) a timetable for implementation of the scheme including a) to f) 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.
- 8) The details of foul and surface water drainage required by condition 7 shall include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation). Reason: In the interests of amenity.

- 9) The landscaping required by condition 7 shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The detailed landscaping drawings shall include:
- a) details of all existing trees, hedgerows and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.
 - b) details of the number, size, species, maturity, spacing and position of proposed trees and landscaping.
 - c) a timetable of implementation of the approved scheme and
 - d) a five [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.

- 10) 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.

- 11) The details of existing lighting required by condition 7 shall:
- a) show that the existing lighting is in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) with reference to environmental zone E1.
 - b) include a layout plan with beam orientation.
 - c) include a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).
 - d) include an ISO lux plan showing light spill.

Reason: To safeguard residential amenity, wildlife and to protect dark skies and prevent undue light pollution, in accordance with the maintenance of the character and quality of the countryside.

- 12) Any future 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:
- a) be in accordance with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2021 (and any subsequent revisions) with reference to environmental zone E1.
 - b) include a layout plan with beam orientation.
 - c) a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).
 - d) an ISO lux plan showing light spill.

The scheme of lighting shall be installed, maintained, and operated thereafter in accordance with the approved scheme.

Reason: To safeguard residential amenity, wildlife and 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 7 shall include the installation of a minimum of one bat tube on the approved mobile homes and the installation of ready-made bird and bat boxes on the site. The development shall be implemented in accordance with the approved details by the end of a two month period following approval 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) All hardstanding areas shall be of permeable construction. Reason: In the interests of amenity.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.