

# PLANNING COMMITTEE MEETING

Date: Thursday 24 September 2020

Time: 6.00 p.m.

Venue: Remote Meeting - The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website

Membership:

Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Spooner (Vice-Chairman), Vizzard and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## **AGENDA**

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Date of Adjourned Meeting - 1 October 2020

Please Note: Due to the number of items on the agenda, the following applications will be rolled over to the adjourned meeting scheduled to be held on 1 October 2020:

- |                |   |
|----------------|---|
| 20/501090/FULL | Clothworkers Arms, Lower Road, Sutton Valence, Maidstone, Kent    |
| 20/502182/FULL | Maplehurst Paddock, Frittenden Road, Staplehurst, Tonbridge, Kent |
| 20/502770/FULL | Holman House, Station Road, Staplehurst, Tonbridge, Kent          |
| 20/502133/FULL | Oaklands, Lenham Road, Headcorn, Kent                             |
| 20/502134/FULL | 1B Martins Gardens, Lenham Road, Headcorn, Kent                   |
| 20/502135/FULL | 2 Martins Gardens, Lenham Road, Headcorn, Kent                    |
| 20/502136/FULL | 4 Martins Gardens, Lenham Road, Headcorn, Kent                    |

6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting

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**Issued on Wednesday 16 September 2020**  
**Over/:**

**Continued**

*Alison Broom*

**Alison Broom, Chief Executive**

7.	Disclosures by Members and Officers	
8.	Disclosures of lobbying	
9.	To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
10.	Minutes of the meeting held on 20 August 2020	1 - 6
11.	Presentation of Petitions (if any)	
12.	Deferred Item	7 - 8
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14.	20/503193/FULL - 69 Tonbridge Road, Maidstone, Kent	27 - 33
15.	20/502215/FULL - Hawthorn Place, Greenway Forstal, Harrietsham, Maidstone, Kent	34 - 42
16.	20/502238/FULL - Neverend Lodge, Pye Corner, Ulcombe, Maidstone, Kent	43 - 51
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18.	20/502032/FULL - Lower Bell Riding School, Back Lane, Boughton Monchelsea, Maidstone, Kent	58 - 73
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24.	20/502133/FULL - Oaklands, Lenham Road, Headcorn, Kent,	145 - 164
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28.	Appeal Decisions	220

## **PLEASE NOTE**

**The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website.**

**For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link: <https://pa.midkent.gov.uk/online-applications/>**

## **PUBLIC REPRESENTATIONS AND ALTERNATIVE FORMATS**

**In order to make a submission to the Committee, please call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 4 p.m. on Wednesday 23 September 2020. You will need to tell us which agenda item you wish to make representations on. Please note that slots will be allocated for each application on a first come, first served basis.**

**If you require this information in an alternative format please contact us, call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).**

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE REMOTE MEETING HELD ON** **20 AUGUST 2020**

**Present:** Councillor English (Chairman) and  
Councillors Adkinson, Brindle, Chappell-Tay, Eves,  
Kimmance, Munford, Parfitt-Reid, Perry, Spooner,  
Vizzard and Wilby

**Also** Councillor Brice  
**Present:**

#### 325. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Harwood.

#### 326. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

#### 327. NOTIFICATION OF VISITING MEMBERS

Councillor Brice had given notice of her wish to speak on the report of the Head of Planning and Development relating to application 20/500269/FULL (Land South of South Cottage, High Street, Staplehurst, Kent), and was present at the meeting.

#### 328. ITEMS WITHDRAWN FROM THE AGENDA

20/502064/FULL - REPLACEMENT OF DEMOLISHED STABLE BUILDING AND BARN (PREVIOUSLY APPROVED FOR 2 NO. HOLIDAY-LETS UNDER 19/501764/FULL) WITH A SMALLER BUILDING FOR USE AS A SINGLE HOLIDAY-LET, AND DEMOLITION OF DETACHED BARN (PREVIOUSLY APPROVED FOR USE AS A SINGLE HOLIDAY-LET UNDER 18/503022/FULL) - BIRCH COTTAGE, MAIDSTONE ROAD, STAPLEHURST, KENT

The Development Manager sought the agreement of the Committee to the withdrawal of this application from the agenda. He explained that having reviewed the flood risk assessment, he considered that a proper assessment in terms of sequential and exception testing had not been carried out; therefore, the application was not ready to be determined at this stage.

**RESOLVED:** That agreement be given to the withdrawal of application 20/502064/FULL from the agenda to enable further consideration to be given to issues around flooding.



329. URGENT ITEMS

The Chairman said that, in his opinion, the update report of the Head of Planning and Development and the updates to be included in the Officer presentations should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

330. DISCLOSURES BY MEMBERS AND OFFICERS

With regard to the report of the Head of Planning and Development relating to application 19/505816/SUB (Lordswood Urban Extension, Gleaming Wood Drive, Lordswood, Kent), Councillor Brindle said that she was a Member of Boxley Parish Council's Environment Committee and would not be taking part in the discussion or the voting on the item.

331. DISCLOSURES OF LOBBYING

The following disclosures of lobbying were noted:

Item 12.	19/505816/SUB – Lordswood Urban Extension, Gleaming Wood Drive, Lordswood, Kent	Councillor Chappell-Tay
Item 13.	20/502037/REM – Kent Medical Campus, Newnham Way, Maidstone, Kent	Councillor Chappell-Tay
Item 14.	20/502064/FULL – Birch Cottage, Maidstone Road, Staplehurst, Kent	Withdrawn from Agenda
Item 15.	20/502706/FULL – 2 Quested Way, Harrietsham, Maidstone, Kent	Councillors Chappell-Tay, English, Kimmance, Parfitt-Reid, Perry and Vizzard
Item 16.	20/500269/FULL – Land South of South Cottage, High Street, Staplehurst, Kent	Councillors Chappell-Tay, English, Kimmance, Parfitt-Reid, Perry and Vizzard

332. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

333. MINUTES OF THE MEETING HELD ON 23 JULY 2020

**RESOLVED:** That the Minutes of the meeting held on 23 July 2020 be approved as a correct record and signed.

334. PRESENTATION OF PETITIONS

There were no petitions.

335. 20/500269/FULL - ERECTION OF 1 NO. 4 BEDROOM DETACHED DWELLING WITH ASSOCIATED AMENITY (RESUBMISSION OF 19/503872/FULL) - LAND SOUTH OF SOUTH COTTAGE, HIGH STREET, STAPLEHURST, KENT

The Committee considered the report and the urgent update report of the Head of Planning and Development.

The Chairman read out statements on behalf of Mr Bax, agent for the applicant, and Ms Ideson, Clerk to Staplehurst Parish Council.

Councillor Brice (Visiting Member) addressed the meeting.

During the discussion reference was made to paragraph 12 of the Inspector's decision letter in respect of the most recent refusal of permission for the development of the site where the Inspector had concluded that the proposals would result in the loss of public views of the listed buildings and would remove the visual link between them. They would no longer appear as part of a cluster of buildings/grounds of similar age. This would be very harmful to the setting of these designated heritage assets. By developing the gap between them, and substantially reducing their visibility, their importance in the street scene would be diminished. The setting, therefore, makes a positive and important contribution to the significance of the heritage assets.

It was suggested that although the application had changed since the previous refused application, it had failed to address the issues raised in paragraph 12 of the Inspector's decision letter.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, the Committee considered that the proposed development would be contrary to Local Plan and Neighbourhood Plan policies, including Neighbourhood Plan policy PW4 and Local Plan policy DM4 (1), for the following summarised reasons:

The application site is an open gap which contributes positively to the setting of the adjacent listed buildings and the character of the Staplehurst Conservation Area and the proposed development would cause harm to the setting of the adjacent listed buildings, fail to preserve or enhance the character of the Staplehurst Conservation Area and fail to protect or enhance the historic environment contrary to Local Plan and Neighbourhood Plan policies. This harm would be less than substantial but there are little or no public benefits arising from the proposals which would outweigh that harm.

The Development Manager requested that delegated powers be given to the Head of Planning and Development to finalise the reasons for refusal

which would include the issues summarised above and reference those matters raised in paragraph 12 of the Inspector's decision letter in respect of the most recent refusal of permission for the development of the site.

**RESOLVED:** That permission be refused and that the Head of Planning and Development be given delegated powers to finalise the reasons for refusal which will include the issues summarised above and reference those matters raised in paragraph 12 of the Inspector's decision letter in respect of the most recent refusal of permission for the development of the site.

Voting:        12 – For        0 – Against        0 – Abstentions

336. 19/505816/SUB - SUBMISSION OF DETAILS PURSUANT TO CONDITION 5 (MATERIALS), CONDITION 7 (WOODLAND MANAGEMENT PLAN), CONDITION 8 (PROPOSED BOUNDARY TREATMENT), CONDITION 10 (ECOLOGY), CONDITION 11 (CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN : BIODIVERSITY) AND CONDITION 17 (BIRD BOXES) IN RELATION TO PLANNING APPLICATION 15/503359/OUT AND APPEAL REFERENCE APP/U2235/W/15/3132364 (FOR RESIDENTIAL DEVELOPMENT (APPROX 89 DWELLINGS) PLUS OPEN SPACE, BIOMASS PLANT AND ACCESS ROAD (PLUS EMERGENCY ACCESS) - LORDSWOOD URBAN EXTENSION, GLEAMING WOOD DRIVE, LORDSWOOD, KENT

The Committee considered the report of the Head of Planning and Development.

The Chairman read out a statement on behalf of Ms Bayliss, Clerk to Boxley Parish Council.

**RESOLVED:** That consideration of this application be deferred to enable the Officers to seek to secure:

A more detailed and improved Woodland Management Plan taking into account the suggestions made by Boxley Parish Council in its representations to the Committee and including not just the woodland but also the spatial edges and brushwood areas;

More information relating to the funding arrangements being adequate to deliver the Woodland Management Plan cross-referencing the obligations in the unilateral undertaking;

More dormouse bridges and an underpass for wildlife;

Insect bricks in end walls adjacent to the public highway/public footpaths and bug hotels in the natural areas;

Wildlife friendly boundary treatments including gaps for hedgehogs;

Deadwood piles to provide wildlife habitats;

More bird/bat boxes in standard trees at a reasonable height; and

No Sycamore trees within planting schemes.

Voting:        11 – For        0 – Against        0 – Abstentions

Note: Having stated that she was a Member of Boxley Parish Council's Environment Committee, Councillor Brindle did not participate in the discussion or the voting on this application.

337. 20/502037/REM - RESERVED MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE OF TEMPORARY CAR PARK PURSUANT TO OUTLINE APPLICATION 16/507292/OUT AS VARIED BY 18/506609/OUT (APPLICATION TO VARY CONDITIONS 3, 4 AND 5 OF PLANNING PERMISSION 16/507292/OUT (OUTLINE APPLICATION WITH ACCESS SOUGHT FOR DEVELOPMENT OF MEDICAL CAMPUS) TO ALLOW FOR THE RELOCATION OF THE NATURE RESERVE) - KENT MEDICAL CAMPUS, NEWNHAM WAY, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

In presenting the application, the Principal Planning Officer advised the Committee that:

- The location of the proposed car park was not fully consistent with the indicative masterplan for the development of the Kent Medical Campus and would not be acceptable as a permanent feature. The Committee report had therefore proposed that a condition be imposed requiring that the car park shall be removed and the land upon which it is sited shall either be restored to its former condition or developed in compliance with a subsequent planning permission/approval of Reserved Matters on or before 31 August 2025.
- Notification had been received earlier during the day that there might be a delay in when the applicants wished to commence work and they had asked for a five year temporary consent starting from implementation which might be within a few years' time.

In response to concerns expressed by a Member about ensuring that the works commence within a reasonable period of time, the Principal Planning Officer advised the Committee that the time limits on a Reserved Matters application were covered by the conditions on the outline planning permission to which it was pursuant. However, for clarity, the condition could be amended to ensure it dealt with the Committee's wish that the target start date be within three years as well as having an end date within five years of implementation.

**RESOLVED:**

1. That the Reserved Matters be approved subject to the conditions and informative set out in the report as amended by the Principal Planning Officer at the meeting.

2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended condition.

Voting:        12 – For        0 – Against        0 – Abstentions

338. 20/502706/FULL - DEMOLITION OF EXISTING GARAGE AND FRONT EXTENSION. ERECTION OF TWO STOREY SIDE EXTENSION AND SINGLE STOREY FRONT EXTENSION - 2 QUESTED WAY, HARRIETSHAM, MAIDSTONE, KENT

The Committee considered the report of the Head of Planning and Development.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with the amendment of condition 4 (Enhancement of Biodiversity) to require the incorporation of bee bricks within the development.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended condition and to amend any other conditions as a consequence.

Voting:        12 – For        0 – Against        0 – Abstentions

339. 20/502064/FULL - REPLACEMENT OF DEMOLISHED STABLE BUILDING AND BARN (PREVIOUSLY APPROVED FOR 2 NO. HOLIDAY-LETS UNDER 19/501764/FULL) WITH A SMALLER BUILDING FOR USE AS A SINGLE HOLIDAY-LET, AND DEMOLITION OF DETACHED BARN (PREVIOUSLY APPROVED FOR USE AS A SINGLE HOLIDAY-LET UNDER 18/503022/FULL) - BIRCH COTTAGE, MAIDSTONE ROAD, STAPLEHURST, KENT

See Minute 328 above

340. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since its last meeting.

**RESOLVED:** That the report be noted and that the Officers be congratulated on their success at appeal.

341. DURATION OF MEETING

6.00 p.m. to 7.54 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**24 SEPTEMBER 2020**

### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

#### **DEFERRED ITEM**

The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>19/505816/SUB - SUBMISSION OF DETAILS PURSUANT TO CONDITION 5 (MATERIALS), CONDITION 7 (WOODLAND MANAGEMENT PLAN), CONDITION 8 (PROPOSED BOUNDARY TREATMENT), CONDITION 10 (ECOLOGY), CONDITION 11 (CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN : BIODIVERSITY) AND CONDITION 17 (BIRD BOXES) IN RELATION TO PLANNING APPLICATION 15/503359/OUT AND APPEAL REFERENCE APP/U2235/W/15/3132364 (FOR RESIDENTIAL DEVELOPMENT (APPROX 89 DWELLINGS) PLUS OPEN SPACE, BIOMASS PLANT AND ACCESS ROAD (PLUS EMERGENCY ACCESS) - LORDSWOOD URBAN EXTENSION, GLEAMING WOOD DRIVE, LORDSWOOD, KENT</u></p> <p>Deferred to enable the Officers to seek to secure:</p> <p>A more detailed and improved Woodland Management Plan taking into account the suggestions made by Boxley Parish Council in its representations to the Committee and including not just the woodland but also the spatial edges and brushwood areas;</p> <p>More information relating to the funding arrangements being adequate to deliver the Woodland Management Plan cross-referencing the obligations in the unilateral undertaking;</p> <p>More dormouse bridges and an underpass for wildlife;</p> <p>Insect bricks in end walls adjacent to the public highway/public footpaths and bug hotels in the natural areas;</p>	<p>20 August 2020</p>

Wildlife friendly boundary treatments including gaps for hedgehogs;	
Deadwood piles to provide wildlife habitats;	
More bird/bat boxes in standard trees at a reasonable height; and	
No Sycamore trees within planting schemes.	



**20/503109/FULL - Land to West of 70 Church Street, Boughton Monchelsea, Maidstone, Kent, ME17 4HN**

Scale: 1:2500

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<b>REFERENCE NO -</b> 20/503109/FULL		
<b>APPLICATION PROPOSAL</b> Erection of 24 no. new C2 extra care retirement homes, clubhouse, bin stores and landscape scheme.		
<b>ADDRESS</b> Land To West Of 70 Church Street Boughton Monchelsea Kent ME17 4HN		
<b>RECOMMENDATION</b> Application Permitted		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>Whilst the site is outside the settlement boundaries and thus in the countryside, the site abuts the village and by virtue of its juxtaposition with allotments and the Village sports ground, is not within in visually sensitive "open" countryside. The site is considered to be well contained from a landscape perspective. It is located well in connection with the grain of the village and its facilities.</p> <p>The accommodation provided can be strictly limited in relation to age and within the accepted C2 definition of Extra Care. There is a significant current and future need for such accommodation and the dependence on windfalls for meeting the need lends significant weight in favour of this application.</p> <p>There is an extant planning permission which is a "fallback" with a genuine likelihood of being implemented and I am of the view that overall, there is no perceptible difference in harm on the character and appearance of the countryside between the 2 schemes.</p> <p>Policies DM1 and DM30 of the MBLP are complied with in terms of design /layout and residential amenities with the imposition of relevant conditions can adequately mitigate any other potential harm.</p> <p>Whilst some information/clarification on the KCC (H&amp;T) objection is awaited from the applicant, compared with the absence of highway concerns on the extant scheme when that was approved, I do not consider that the NPPF test for a refusal on highway grounds could be sustained.</p> <p>For these reasons, it is considered that meeting a need and the lack of additional countryside or landscape harm when considered to the fallback position, taken together are considered to outweigh the harm due to its location outside the settlement boundary and there is hence a justification for the departure from the development plan.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the Development Plan on account of being located in the designated countryside Called into Committee by Boughton Monchelsea Parish Council		
<b>WARD</b> Boughton Monchelsea And Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Clarendon Homes  <b>AGENT</b> Clarendon Homes
<b>TARGET DECISION DATE</b> 09/10/20		<b>PUBLICITY EXPIRY DATE</b> 26/08/20

### **Relevant Planning History**

16/502993/FULL

Demolition of existing buildings and construction of 18 new C2 Extra Care Retirement Homes, Clubhouse, Car Ports, Bin Stores, Landscape Scheme and Access Road.  
Demolition of garage to rear of 70 Church Street and erection of new oak framed car port to rear garden  
Approved Decision Date: 06.09.2018

19/502737/SUB

Submission of Details to Discharge Condition 7 - Construction Method Statement subject to 16/502993/FULL.  
Approved Decision date: 03.07.2019

19/503990/SUB

Submission of details pursuant to Conditions 2: Details of materials, 5: Details of pedestrian priority junction, 13: Reptile mitigation strategy, & 16: Archaeological field evaluation/investigation (original application ref: 16/502993/FULL).

Part Permitted Part Refused                      Decision date: 30.10.2019  
(refused in terms of conditions 2 and 5)

19/506162/SUB

Submission of details pursuant to conditions 2 (materials); 3 (slab levels); 5 (pedestrian priority junction); 9 (landscaping); 12 (landscape and ecological design and management plan); 14 (biodiversity enhancements); and 15 (arboricultural method statement) for 16/502993/FULL.

Part Permitted Part Refused                      Decision date: 06.02.2020  
(refused in terms of conditions 2 (part); 9; 12; 15)

19/506227/SUB

Submission of details pursuant to condition 17 (sustainable surface water drainage strategy) of application 16/502993/FULL.

Refused                      Decision date: 06.02.2020

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The site lies to the west of Church Street and to the north of Heath Road with the remainder of the village of Boughton Monchelsea to the north and north east. The site occupies a relatively central location within the village as it is located between the village allotments, sports ground and pitches and residential properties. The site has access to pedestrian footpaths which run along the western side of Church Street.
- 1.02 The site was formerly a cobnut plantation which was largely cleared in February/March 2016 under exemptions of a TPO and which is now open ground across over the majority of the site with a smaller area of cobnut trees remaining to the western 30m of the site. Part of the site borders the village sports field to the south by an established hedgerow which is 3-4m in height and the remaining part of the cobnut plantation borders the western part of the site. The site includes a widened access road from the south east corner from Church Street that was formed from a 3m wide strip of former garden of no.70 Church Street. This has incorporated pedestrian priority to those using the footpath of Church Street.
- 1.03 The gardens of 4 residential properties on Church Street back onto the eastern boundary of the site which is bounded by a hedgerow. These dwellings are at distances from the common boundary ranging from 25 to 30m. A further hedgerow lies along the northern boundary which borders agricultural grazing land to the north of the site (which has been submitted as potential residential development site in the Call for Sites).
- 1.04 The application site is relatively flat in topography with just a gentle slope down from south to north and due to the boundary hedgerows, it is relatively well contained from the wider landscape.
- 1.05 The site lies in an Area of Archaeological Potential. The site is still subject to a TPO albeit there is no way to legally require the replanting of the Cobnut trees removed as exemption to the TPO.

### **2. PROPOSAL**

- 2.01 The planning application is the subject of a Planning Performance Agreement and development proposals have been revised since a Member Briefing.
- 2.02 This 24 unit scheme is from a different applicant to who secured the 18 unit scheme but is effectively a revision of an extant planning permission ref 16/502993/FULL granted on 6 September 2018 for the construction of 18 x 2-bedroom C2 extra care units together with a communal clubhouse building. The total floor area was 2042 sqm with the units ranging from 83 sqm to 149 sqm. The on-site clubhouse building was to be the central base for the on-site management and would provide 24hr care for the occupants. That planning permission was granted subject to a s106 legal agreement with financial healthcare contributions and occupation by those aged over 55 with at least one occupant of each unit being subject to a care need assessment and commitment to a minimum care package. The approved care package was: the managing agent to be Xtracare Ltd (registered with the Care Quality Commission) and being in receipt of a General Practitioner certificate stating a disability/medical condition or registered visually impaired and contracted to receive Personal Care for a minimum of 2 hours per week.
- 2.03 This revision proposes 24 units and a similar sized clubhouse and overall footprint but with the units generally being smaller and more evenly sized ranging from 74 sqm to 82.5 sqm. There are indicated to be 10 pairs of semi-detached bungalows with heights to the ridges of 6-7m and eaves of 2.5m high and 4 detached bungalows with heights to the ridges of 6-6.5m and eaves of 2.5m. Materials will be a red Multi stock brick, red clay roof tiles, dark brown coloured artificial timber effect boarding, pale render to some of the bay windows, white UPVC windows, soffits and fascias and black UPVC rain water goods.
- 2.04 There will be brick faced garden boundary walls to the most prominent side garden boundaries and cleft rail fencing elsewhere between gardens with timber rabbit fencing along the northern and southern hedgerows.
- 2.05 The clubhouse is still single storey and is now proposed behind no. 70 Church Street, nearest the entrance rather than in the centre of the site as in the extant scheme. The clubhouse scales at 5m in ridge height with a footprint of 123 sqm. It will be the location where communal events, visiting support services and activities can take place. The Clubhouse includes a reception and waiting area, function room, kitchen, consulting/treatment room, office for the visiting manager and disabled WC.
- 2.06 The site layout has changed radically from the 18 unit scheme, essentially the units are no longer all inward facing and there is less soft landscaping to the frontages and a greater overall level of hardstanding due to more parking/access being needed. However, three sets of car ports are no longer proposed and all the parking is on-plot open parking. Parking is 1 space per plot with 10 visitor spaces overall with the bays and the access way in block paving (charcoal and brindle colours) and footpaths in permeable resin bonded gravel.
- 2.07 A Transport Statement indicates that trip rates (both in and out) for this scale and type of use are:
- Morning peak = 4
  - Evening peak = 3
  - Daily average = 50 (7am to 7pm)
  - Average = 1 car movement every 14 mins (7am to 7pm).
- 2.08 Six communal bin stores are indicated to be in enclosures of timber hit and miss panels, sited adjacent to parking bays. Turning for refuse freighters is indicated to be possible within the site.

- 2.09 The scheme has been designed to have a traditional appearance of bungalows and a low physical profile whilst retaining the existing landscape structure including hedgerows with open space to the rear of the development in the form of retained cobnut trees covering approx 0.194ha.
- 2.10 A new Landscape and Visual Impact Assessment dated July 2020 concludes that the overall effect upon visual amenity is considered to be "Negligible to Minor" compared to its current state of an open field.
- 2.11 Lighting will be via PIR lantern style units to front and back doors and low height timber bollards with unidirectional lighting. Timber cycle stores/sheds will be sited in each rear garden.
- 2.12 Ecology benefits include 6 integral Sparrow Terraces and 4 integral Swift bricks plus 5 tree mounted bat boxes and 2 tree mounted owl boxes and several wood piles within the cobnut platt. The northern and southern hedgerow adjacent to the fields and rear of Church Street dwellings will be infilled with hornbeam, hawthorn and privet with 3 Beech trees being retained. The Cobnut coppice will be cleaned out and thinned prior to coppicing. Within the area of retained cobnut planting, a new footpath, gazebo, garden store and wildflower garden provide further communal space for the residents.
- 2.13 A 2016 reptile survey found no reptiles present. Dormice and Great crested newts are not expected to be present, nor signs of badgers or bats roosting sites. Nesting birds are likely to be present as are hedgehogs. Suggested biodiversity enhancements for the site could include the following: hedgehog nesting boxes and gaps in fencing; provision of bat roosting spaces within the new buildings; climbing plants on walls and other vertical structures; wildflower plug/bulb planting in amenity grassland; a wildlife pond. The agent has confirmed that most of the fences will be open style not close boarded and that a condition requiring biodiversity enhancements (eg also insect bricks) will be acceptable.
- 2.14 The application includes a SBEM assessment of the Clubhouse ( in excess of a 15% saving in carbon dioxide emissions). There will be a total saving in carbon emissions of 12.9% site wide. Heating and hot water to each dwelling is to be provided via the air source heat pumps, there will be attention in the build to air permeability, thermal bridging, low energy lighting and low water usage.
- 2.15 In support of the new scheme, the applicant states:
- The Borough Council's evidence base supporting the Local Plan has an established a need of 960 new C2 Use Class dwellings during the Plan period
  - It meets central government policy to provide a range of homes suitable for an ageing population
  - The concept is for delivering care needs at a cost effective rate through providing an alternative freehold home, the style of living allows independence later into life
  - Lack of high service charges opens up the development to a wider range of people than the typical Retirement Village model.
  - Small scale of the development responds to its rural location
  - All dwellings are designed according to Lifetime Homes principles and are adaptable to the needs of the users.
  - The homes are purchased by qualifying occupiers aged over 55
  - Screening process to confirm eligibility from an existing care need: at least one person from each qualifying household will receive some form of care in

accordance with the basic minimum care package comprising at least 2 hours per week of personal care and support assistance.

- Residents may increase their care provision as and when required which reduces the pressure on having to move into a Care Home.
- The communal areas of the site shall be managed by the Management Company which could also include management of private gardens.
- The care that will be provided will be managed/operated by an organisation which is registered as a domiciliary care agency with the Care Quality Commission as a single cohesive community

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 Policies SS1; SP11; SP12; SP17; ID1;DM1; DM3; DM4; DM8; DM19; DM20; DM21; DM23; DM30;  
Neighbourhood Plans Boughton Monchelsea Neighbourhood Plan ( Submission Version)  
Kent Minerals and Waste Local Plan 2016  
Supplementary Planning Documents n/a  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

4.01 2 letters of support.

4.02 4 Objections received from local residents raising the following (summarised) issues

- overdevelopment of the site
- inadequate parking
- lack of a green buffer on the eastern side
- the clubhouse would be better positioned next to the communal space
- a big increase in traffic movements across the Church Street footpath used heavily by pedestrians including children, causing danger and accidents
- traffic volume Church Street increased from Lyewood Farm (earmarked for 25 dwellings on the Local Plan, but now standing at 85)
- danger to cyclists
- parking problems in Church Street, hindering emergency and refuse vehicles
- Regular high number of serious accidents on Heath Road
- Poor bus services to Coxheath
- Bus service to Maidstone is too slow compared to driving.

### **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)

#### Parish Council

Support C2 use of the site but objects as follows:

- Over-development
- Parking inadequate
- More visitor parking needed
- Such a large communal space is unnecessary- prefer a looser layout and a green buffer on the east of the site rear of Church Street.
- Clubhouse location will affect amenity of Church Street properties.
- Clubhouse should be adjacent the communal space
- Highway impact of another 6 properties across the Church Street footpath

Environment Agency

5.01 No Comments

Kent and Medway CCG

5.02 s106 contributions of £17,280 needed as there will be demand on primary healthcare.

Kent Police

5.03 More site specific designing out crime measures are needed.

KCC (Flood and Water Management)

5.04 No objection: additional ground investigation will be required to support the use of infiltration. Note permeable paving is proposed: foul sewers should be routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption. Conditions are needed.

Southern Water

5.05 Initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development.

KCC (Highways)

5.06 A holding objection:

- Junction of B2163 Heath Road / Church Road / Church Hill: as the development proposals will route trips through this junction, these needs to be investigation to see if there is a safety consideration that may be exacerbated by the proposals.
- Spur road for units 1-7. Drawings need to illustrate collection from the bin store and access by fire tender and pantechnican.
- Communal bin stores: some appear to be some distance from properties, which may be a problem for the more elderly residents.
- Clubhouse parking is not adequate if serves the wider area.
- More details of cycle parking are needed, including for clubhouse.
- Car parking exceeds the standard of 1 space per 2 units for this use class.
- The trip generation needs to be reviewed: TRICS using 'Retirement and Care Community' may be more appropriate. The high provision of car parking and more mobile residents referred to in the Transport Statement will likely lead to higher trip numbers and there could be commuting trips from this site.

KCC Ecology

5.07 A reptile survey has been undertaken as part of condition 13 (19/503990/SUB) of planning permission 16/502993/FUL and the conclusions of the survey detailed that reptiles are considered likely absent, and as the grassland has been left unmanaged

for less than year we accept that it is unlikely that reptiles will have re-established on site.

- 5.08 Suggest informative on mitigation for breeding birds. Information is needed confirming the numbers and location of the integrated bat boxes within the buildings. Condition suggested for a management plan to be produced and implemented to ensure that the open space in the site can be benefit biodiversity.

KCC Archaeology

- 5.09 No response

Parks & Open Spaces

- 5.10 As the application documents do not indicate any publicly accessible on-site open space, it is requested that a contribution of £1,575 per property is made for off-site improvements or maintenance to existing open space. 24 units x £1,575 per unit = £37,800 off-site Open Space contribution. To be spent at Salts Farm or other Natural/semi-natural areas of accessible public open space within 1km of the development.

Environmental Protection

- 5.11 Condition suggested for EV Charging Points.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- Principle of Development
- The Extant Planning Permission
- Design and Layout
- Residential Amenity
- Highways and Parking

### **Principle of Development**

- 6.02 Policy SS1 of the MBLP is the spatial strategy for development and states that protection will be given to the rural character of the borough. The main part of the site lies outside but abutting the development boundary for Boughton Monchelsea which is a larger village, subject to Policies SP11 and SP12 in the MBLP. Whilst the context to the site includes adjoining residential development, sports pitches and allotments to 3 of its boundaries and is also in central village location, the site is nevertheless designated as a countryside area in policy terms. Such an area is subject to policy SP17 which restricts development of this type and requires development to preserve or enhance the character of the countryside.
- 6.03 Policies SP11 and SP12 seek to focus new development within the settlement boundaries: Boughton Monchelsea being a larger village where limited growth could support local services and facilities.
- 6.04 Therefore, in locational terms, the development would be a departure from the Development Plan. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 6.05 It is the case that the scheme approved in 2018 under ref 16/502993/FULL was similarly contrary to the same adopted Development Plan so it is necessary to re-assess whether the same mitigating material considerations still apply and if they continue to outweigh the harm to the countryside or any other harm.
- 6.06 The scheme approved in 2018 was intrinsically linked to care provision with proximity to public transport, shopping, community and adequate access for residents and health providers. The legal agreement restricted the use and occupier type such that it was distinct from traditional housing schemes as it would deliver a specialist housing type, intrinsically linked to the provision of care as well as that of the aging population. This was considered to meet the needs identified by the Strategic Market Housing Assessment (SHMA) as well as the wider range of benefits of such provision including reducing pressure on social and health services, freeing up larger homes (as the older population typically under occupy their existing homes) and allowing the opportunity for older people to retain their independence into old age. These considerations continue to apply to the revised scheme.
- 6.07 It is still the case that MBC has considered extra care as a C2 use and that the units at Ledian Farm were approved outside the development boundary for Leeds village so there remains a similarity- Ledian Farm was actually of a much larger scale and Leeds is not a "larger village" under SP11. It is still the case that it is a material consideration that there is a significant unmet existing and future need for such accommodation and that there is no policy mechanism to deliver identified need for C2 with any certainty. The Council is still solely dependent on windfall sites coming forward (ideally within the settlement boundaries) to meet the aforementioned significant need. Planning permission 16/502993/FULL was a windfall development for 18 units towards the target and permitting the current application would add a further 6 windfall units towards the total without any expansion of the size of the application site.

#### **The Extant Planning Permission**

- 6.08 An additional material planning consideration in favour of the scheme is the extant planning permission in terms of whether it represents a "fallback" with a genuine realistic prospect of being implemented. In this case, the access has been built in accordance with the approval and there have been applications to discharge some of the conditions on the planning permission, albeit not all of the pre-commencement conditions have been approved (specifically the hardstanding materials, soft landscaping, the LEMP, the Arboricultural Method Statement and the SuDS scheme). I do consider that those conditions do not go to the heart of the planning permission and could be approved within the time limits without having been prejudiced by the first part of the access road having been already constructed. Hence I am of the opinion that the fallback is a genuine option for the developers and so a comparison of the 2 schemes is necessary to attribute a weight to the fallback as a material consideration.
- 6.09 The extra units in the current scheme would be achieved without an increase in harm to the appearance and character of the area when viewed from outside the site because the extra built form is in the central area of the development and there is only a minor increase in harm to the appearance and character of the countryside once viewed from within the centre of the site itself. Moreover, it could be argued that the change in the layout of the units on the northern boundary to make them perpendicular not parallel to it, introduces large gaps to the roofline and so overall reduces the visual impact compared to the continuous roof ridgeline of the approved scheme from the countryside to the north. The current application also has a layout of units on the northern edge that takes more account of the need to have reduced proximity to 3 Beech trees which are being retained. Only one of the Beech trees is shown to be in a private rear garden location whereas in the approved layout, all 3 are in private rear gardens. On balance, I am of the view that



there is no material difference in harm on the character and appearance of the countryside between the 2 schemes.

- 6.10 In terms of the detail of the development, the built form remains restricted to single storey with the use of pitched roofs but still relatively low rise. It was accepted that the access road would afford views from Church Street, but that was from a built context and was not considered to cause significant harm to the character of the countryside. The same conclusions are reached in the latest LVIA.
- 6.11 The site still lies within the village context of Boughton Monchelsea and is located near to village amenities and residential properties and is within walking distance of the village shop and facilities such as the social club, the allotments and bus stops on Heath Road. It will be less than 2km from the new GP surgery planned at Linton/Coxheath which is specifically to have good access by non car modes as part of its planning permission. The site remains well related to the village in a geographical sense and is considered a relatively sustainable location in access terms. It therefore has a role in complying with Policy SP12 of the MBLP which does state that key services in Boughton Monchelsea will be supported.
- 6.12 The development is also considered to still accord with the NPPF which requires the relationship between travel and development to have regard to other policies within the framework, including rural areas, which refers to the role of new housing in supporting the ongoing vitality of rural communities and local facilities. Whilst this development is not housing in the normal sense, it provides similar benefits.

### **Design and Layout**

- 6.13 The remaining part of the cobnut plantation will act as a buffer between the units and the western boundary to the site along with further landscaping along the boundaries including tree planting. This western part of the site will be laid out as open space with footpath route through this from the housing units. This was originally to reference the former use of the site and the continuation of that is supported.
- 6.14 The revisions made since the Member Briefing include a change in the balance of private open space from being mostly in rear gardens to more generously sized front gardens and this visually softens the development, as well as encouraging more engagement between residents.
- 6.15 The development incorporates elements of traditional architecture with use of pitched clay tile roofs, cladding and stock brick. The development is single storey throughout and architectural variation is achieved by projected and recessed elements such as bay windows and front feature gables. One element of the design which did not initially respond to pre-application advice was that a number of the units on corner plots were not adequately dual aspect (plots 7, 8 and 24). The applicant has now amended them to add kitchen windows to make these visually prominent flanks more interesting as well as improve the interior of the dwellings and provide better surveillance of the main access.
- 6.16 Having regard to the extant permission, I consider the scheme would represent an appropriate scale of development within the site in relation to its edge of village location.
- 6.17 The individual units will be designed to meet the Building for Life principles and Lifetime Homes standards. The units represent adaptable homes which are considered to achieve the balance between independence and the future care needs of the occupiers including the potential to accommodate live-in carers in future years.

- 6.18 In summary it is considered the scheme on the whole, represents an acceptable standard of design that has taken account of its immediate environs and the wider village and thus will accord with policies DM1 and DM30 of the MBLP.

### **Residential Amenity**

- 6.19 The site abuts 4 rear gardens of dwellings in Church Street which are approximately 25-30 metres in length and back onto the eastern boundary of the site which currently has a hedgerow of around 1.2m high with a number of trees along the boundary. It is the case, as pointed out by the PC and some of the objectors that this scheme does have a closer relationship with that boundary.
- 6.20 However, the development is single storey and the nearest units to the neighbouring gardens are plots 1-4 which only have ground floor windows facing. The proposals will include new planting on this boundary and it would be possible to impose a condition to require fencing/landscaping to prevent views into the adjacent gardens, although the roofs will be visible. The length of the adjoining gardens and the single storey nature of the development would also ensure there would be no impact of way of adverse outlook caused by the new built form.
- 6.21 The Clubhouse is shown to be approx. 5m from the rear boundaries of 68 and 70 Church Street but this building is only 5m to the ridge and would be a total of over 30m from both of these neighbouring houses. Whilst it is appreciated that having these buildings set further from Church Street would be preferable to those occupiers, I do not consider that there is any need for a "buffer" and consequent reduced area of Cobnut platt. The scheme before Members has to be judged as to whether it would cause harm to neighbouring residential amenities and it is my view that it does not.
- 6.22 I do not share the PC's concern that the clubhouse will be noisy for a use of this nature. A condition is suggested to ensure that there is no external use or hiring out to non-residents.
- 6.23 In terms of the impact of the access road on adjacent properties, there is a relatively low frequency of trips related to such use such that there would not be an adverse impact on the amenities of the adjoining properties.
- 6.24 Overall, Policy DM1 of the MBLP is complied with in terms of residential amenities with the imposition of relevant conditions.

### **Highways and Parking**

- 6.25 Paragraph 109 of the NPPF 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.
- 6.26 Policy DM1 of the MBLP requires the safe accommodation of the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access. Policy DM 21 requires development proposals to demonstrate that the impacts of trips generated to and from the development are accommodated, remedied or mitigated to prevent severe residual impacts. Policy DM 23 on parking standards requires that vehicle parking for non-residential uses should not exacerbate on street car parking to an unacceptable degree.
- 6.27 The applicant has been notified of the KCC (H&T) objection and any response or further clarifying information will be reported in an update.
- 6.28 The extant planning permission had 3 carports of 6 spaces each and each had driveway spaces making potentially 36 private spaces and 7 visitor spaces. There were no KCC objections to that level of provision. This scheme has no driveway

spaces so the total number of spaces is less. Hence it is not a justifiable concern that this scheme has excessive parking. Members will note that there is concern from local residents that Church Street should not take any overflow parking from this site so under provision of on-site parking would also be a concern.

- 6.29 The submission indicates that there will be sheds in each of the 24 rear gardens that can accommodate storage for cycles. Bearing in mind that the clubhouse is for on-site use (which will be conditioned), I am of the view that there does not need to be more parking for external visitors. There is scope however to provide a cycle rack for use by staff near to the clubhouse.

### **Other Matters**

- 6.30 A development of this scale is clearly likely to place extra demands on local services and facilities and it is important to ensure that the development can be assimilated within the local community. As such suitable financial contributions to make the development acceptable in planning terms can be sought in line with policy ID1 of the Local Plan in terms of Open Space and NHS monies (this form of development is not subject to CIL). The applicant has agreed these 2 requests to be in a s106 legal agreement.
- 6.31 The site is located within Flood Zone 1 which is at the lowest risk of flooding. The Flood Risk Assessment and Surface Water Management Plan show that SuDS could be incorporated into the design as the site also has a low risk from contamination. This is proposed to be achieved through the use of soakaways and storage crates. This information has been reviewed by KCC Drainage and they are generally content with the approach and methodology in principle but require further investigation and an assurance that foul drainage is not compromised. Conditions are suggested.
- 6.32 A informative on designing out crime is suggested to take account of the representations made by Kent Police. The site lies in an AAP but an archaeological evaluation has taken place in connection with the extant planning permission and fifteen evaluation trenches were excavated with no significant archaeological features or deposits encountered.
- 6.33 As detailed above, there are no particular ecological issues that cannot be dealt with by the imposition of a condition for biodiversity net gain. Tree protection measures also need to be subject of a condition bearing in mind the need to protect the screening function of trees and hedgerows to ensure the conclusions of the LVIA are met.
- 6.34 A condition needs to be imposed for ensure there are enough EV charging points.

### **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 Whilst the site is outside the settlement boundaries and thus in the countryside, the site abuts the village and by virtue of its juxtaposition with allotments and the Village sports ground, is not within in visually sensitive "open" countryside. The site is considered to be well contained from a landscape perspective. It is located well in connection with the grain of the village and its facilities.

- 7.02 The accommodation provided can be strictly limited in relation to age and within the accepted C2 definition of Extra Care. There is a significant current and future need for such accommodation and the dependence on windfalls for meeting the need lends significant weight in favour of this application.
- 7.03 There is an extant planning permission which is a "fallback" with a genuine likelihood of being implemented and I am of the view that overall, there is no perceptible difference in harm on the character and appearance of the countryside between the 2 schemes.
- 7.04 Policies DM1 and DM30 of the MBLP are complied with in terms of design /layout and residential amenities with the imposition of relevant conditions can adequately mitigate any other potential harm.
- 7.05 Whilst some information/clarification on the KCC (H&T) objection is awaited from the applicant, compared with the absence of highway concerns on the extant scheme when that was approved, I do not consider that the NPPF test for a refusal on highway grounds could be sustained.
- 7.06 For these reasons, it is considered that meeting a need and the lack of additional countryside or landscape harm when considered to the fallback position, taken together are considered to outweigh the harm due to its location outside the settlement boundary and would justify the departure from the development plan.

## **8. RECOMMENDATION**

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement to provide the following (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee):

- Contribution of £17,280 towards NHS healthcare
- Contribution of £37,800 off-site Open Space contribution to be spent at Salts Farm or other Natural/semi-natural areas of accessible public open space within 1km of the development.
- Maintenance of the remainder of the cobnut platt, to be retained in perpetuity as communal amenity
- Occupation only within Class C2 by those aged over 55 with at least one occupant of each unit being subject to a care need assessment and commitment to a minimum care package to be approved by the Local Planning Authority

and the imposition of the conditions as set out below:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the following drawings;

20-1091 PL01 G Proposed Site Layout; 20-1091 PL02 Rev G Proposed Site Plan; 20-1091 PL03 Rev D Proposed Street Elevations/Site Sections; 20-1091 PL04 A Type A Plans and Elevations; 20-1091 PL05 Rev C Proposed

Bungalow Type B Plan and Elevations; 20-1091 PL06 A Type C Plans and Elevations; 20-1091 PL07 A Type D Plans and Elevations; 20-1091 PL08 Rev C Proposed Bungalow Type E Plan and Elevations; 20-1091 PL09 B Community Club House; 20-1091 PL10 A Bin Stores Plans and Elevations; 20-1091 PL11 Proposed Hard Landscaping Plan; 20-1091 PL12 Boundary Treatment Plan; 20-1091 PL13 Tree Protection Plan; 20-1091 PL14 External Lighting Plan; 20-1091 PL15 Bird and Bat Box Plan; 20-1091 PL16 Refuse Strategy Plan; 20-1091 PL17 Foul Drainage Strategy Plan; 20-1091 PL18 Soft Landscaping Plan, 1; 20-1091 PL19 Soft Landscaping Plan, 2; 20-1091 PL20 Bicycle Storage Details; 20-1091 PL21 Air Source Heat Pump Details; 20-1091 PL23 Soft Landscaping Strategy;

Reason: For the purposes of clarity.

- 3) No development above slab level shall take place until details of plots where electric vehicle charging points can be installed have been submitted to and approved in writing by the Local Planning Authority for that phase. The approved plots shall not be occupied until a minimum of one electric vehicle charging point has been installed on each property, and shall thereafter be retained for that purpose.

Reason: In the interests of air pollution control.

- 4) No development above slab level shall take place until details and a timetable to secure biodiversity net gain have been submitted to and approved in writing by the Local Planning Authority. The measures must be implemented as approved thereafter. The measures will be expected to result from investigation of scope for both boxes and integral bricks for birds and bats; insect bricks; gaps under boundary treatments; log piles, hedgehog nesting boxes; climbing plants on walls and other vertical structures; wildflower plug/bulb planting in amenity grassland; a wildlife pond.

Reason: In the interests of ecological enhancement.

- 5) No lighting shall be placed or erected within the site except in accordance with details hereby approved on drawing 20-1091 PL14. Any additional lights shall require details of a "lighting design strategy for biodiversity" for the site to be submitted to and approved in writing by the local planning authority prior to the occupation of the development. The strategy shall:

a) Identify those areas/features on site that are particularly sensitive for bats and in which lighting must be designed to minimise disturbance, and;

b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

c) Include measures to reduce light pollution and spillage. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of rural amenity and ecological interest.

- 6) Above ground construction work on the approved buildings shall not commence until full details of the following matters in the form of large scale drawings (at least 1:20 scale) have been submitted to and approved in writing by the Local Planning Authority

- a) New external joinery
- b) Details of eaves and roof overhangs
- c) Details of projecting bays and porch canopies
- d) Details of door and window headers and cills.

The development shall be carried out in accordance with the approved details.

Reason: To ensure a high quality appearance in the rural area.

- 7) The development shall not commence until details of the proposed slab levels of the buildings and roadways relative to the existing site levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed strictly in accordance with the approved levels.

Reason: In order to secure a satisfactory form of development.

- 8) The hedge on the boundary with Church Street shall be maintained at less than 1m in height to maintain visibility splays. The splays shall be maintained as such thereafter.

Reason: In the interests of highway safety.

- 9) The development shall not be occupied until the approved parking areas have been provided and that areas shall not thereafter be used for any purpose other than the parking of vehicles for the development hereby approved. The 10 designated visitor spaces shall be retained for visitors only thereafter.

Reason: In the interests of highway safety.

- 10) The development shall not be occupied until a cycle rack has been installed to serve the clubhouse in accordance with details that have been submitted to and approved by the Local Planning Authority and until the cycle stores on drawing 20-1091 PL20 have been provided.

Reason: In the interests of sustainable travel.

- 11) The clubhouse as approved shall only be used for the provision of care or for purposes ancillary to the use of the extra care units hereby approved.

Reason: To prevent harm to the amenities of surrounding occupiers.

- 12) Notwithstanding drawing 20-1091 PL18 and PL19, no development above damp proof course level shall take place until details of a scheme of landscaping using native species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection during the course of development in the form of a Tree Protection Plan undertaken by an appropriately qualified party in accordance with BS5837:2012 and a programme for the approved scheme's implementation and long term management, have been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include details of the repair and retention of existing hedgerows and tree lines within the site.

The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details over the period specified;

Reason: To safeguard existing trees and hedges to be retained and ensure a satisfactory external appearance to the development and a high quality of design

- 13) There shall be no occupation of the development hereby permitted until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping 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 ten years from the first occupation of a property, commencement of use or adoption of land, 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: To ensure a satisfactory landscaped setting for the development

- 14) All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior written consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within ten years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity.

- 15) The development shall not commence above slab level until a Landscape and Ecological Design and Management Plan has been submitted to and been approved in writing by the local planning authority. The Landscape and Ecological Design and Management Plan shall include the following:

- a) Purpose and conservation objectives for the proposed habitat creation and enhancements;
- b) Detailed design to achieve stated objectives;
- c) Extent and locations of proposed works on appropriate scale plans;
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) Description and evaluation of features to be managed;
- f) Aims and measurable objectives of management;
- g) Appropriate management prescriptions for achieving aims and objectives;
- h) Preparation of a work schedule for the duration of the plan;
- i) Ongoing habitat and species monitoring provision against measurable objectives;
- j) Procedure for the identification, agreement and implementation of contingencies and/or remedial actions where the monitoring results show that the objectives are not being met;
- k) Details of the body/ies or organisation/s responsible for implementation of the plan.
- l) Details of interpretation boards to be incorporated in to the development site to inform residents of the sites management.

The Landscape and Ecological Design and Management Plan shall also include details of the legal and funding mechanism by which the short and long-term implementation of the management Plan will be secured by the developer with the

management body responsible for its delivery. The approved Plan will be implemented in accordance with the approved details.

Reason: To ensure a high quality design, appearance and setting to the development, and to protect and enhance biodiversity.

- 16) The development shall not commence until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS shall incorporate details appropriate to the construction operations being undertaken and shall include, but not be limited to, a working methodology/phasing for operations with the Root Protection Area (RPA) of any retained tree; consideration of the location and installation of services and drainage; a programme of site monitoring and arboricultural supervision if appropriate; a detailed schedule of re-commencement tree works and; a Tree Protection Plan showing the design and location of fencing and/or ground protection necessary to ensure all retained trees can be successfully integrated within the permitted scheme. No equipment, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority.

Reason: To ensure a satisfactory external appearance to the development.

- 17) Development shall not commence until a detailed sustainable surface water drainage strategy been submitted to (and approved in writing by) the local planning authority. It shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of within the curtilage of the site.

Reason: To ensure the proper integration of sustainable urban drainage within the development

- 18) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the approved sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

i) A timetable for its implementation, and

ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

## **INFORMATIVES**



- 1) The Local Member is to be consulted on submission of details relating to landscaping.
- 2) Foul sewers should be routed outside of areas of permeable paving or cross it in dedicated service corridors, particularly where sewers will be offered for adoption.
- 3) You are advised to contact Kent Police's Designing Out Crime Officer to discuss site specific designing out crime measures.

Case Officer: Marion Geary



20/503193/FULL - 69 Tonbridge Road, Maidstone, Kent, ME16 8SA

Scale: 1:1250

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<b>REFERENCE NO -</b> 20/503193/FULL		
<b>APPLICATION PROPOSAL</b> Change of use of 6 bedroom HMO (Class C4) to an 8 bedroom HMO (Sui Generis), including alterations to fenestration, internal layout and insertion of a dormer window within the front roof slope.		
<b>ADDRESS</b> 69 Tonbridge Road, Maidstone ME16 8SA		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions set out in Section 8.0		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The proposed is not considered to have a detrimental impact upon the character and appearance of the wider area and the intensification of the existing use as a HMO would not be significant. The development would not impact upon the amenity of neighbouring properties or occupying residents, nor would it impact upon parking in the area or the wider highway network. As such the development is considered to be in keeping with local and national planning policies and is recommended for approval.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  Ward Councillor has requested that the application be considered by the Planning Committee due to local community concern over the enlargement of HMO's.		
<b>WARD</b> Fant	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr T Edgar <b>AGENT</b> Mr Jonathan Bolton
<b>TARGET DECISION DATE</b> 29.09.2020		<b>PUBLICITY EXPIRY DATE</b> 11.09.2020

**Relevant Planning History** : None relevant

## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

- 1.01 The application site comprises a fairly large three storey end of terrace property located to the south west of Maidstone town centre. Situated on Tonbridge Road, the property is set back from the road with a small enclosed front garden area.
- 1.02 A licence was obtained for the use of the property as a 6 bedroomed House of Multiple Occupation (HMO) in 2019, and the property has been used as such under the provisions contained within the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

### **2. PROPOSAL**

- 2.01 The application seeks to change of use of a 6 person HMO (Class C4) to an 8 person HMO (Sui Generis), including alterations to fenestration and internal layout. This proposal also includes a front dormer extension to mirror the existing adjacent dormer in the front roof slope to accommodate an additional bedroom.
- 2.02 The external finishes of the proposal will match the materials used in the existing building.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017:

SP1 – Maidstone urban area

SP19 – Housing mix

DM1 – Principles of good design

DM9 – Residential extensions, conversions and redevelopment within the built up area

DM12 – Density of housing development

SPG 4 - KCC Parking Standards (2006)

Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (2009)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 No representations have been received from local residents as a result of the consultation process.

### **5. CONSULTATIONS**

- 5.01 **Environmental Health** - There will be the potential for noise nuisance within the house, particularly with the nature of the development. Ensuring that future occupants do not disturb neighbours can partly be dealt with through effective use of a tenancy agreement. Any complaints would be investigated as appropriate by the Local Council. Due to the potentially large number of residents extra provision for the storage of waste may be necessary and recycling facilities should be provided.

There is no indication of contamination in the area and no indication of potential high radon levels. Prior to any alterations the property should be inspected carefully for asbestos and any found must only be removed by a licensed contractor. The property must fully comply with all the relevant housing legislation. The applicants should contact the Fire Safety Officer with regards to the requirements.

- 5.02 **Senior Housing & Health Officer** - The property was licensed as a House in Multiple Occupation for 6 people in 6 bedrooms. The existing licence will lapse as there will be a new licence holder. There is provision for 1 set of kitchen facilities and three shared showers with 2 en-suites.

The proposed room sizes meet the Council's minimum room sizes for HMOs and would give a maximum number of occupants of 12 people in 8 rooms if licenced.

Ground floor front room – 2 people

Ground floor rear room – 2 people

First floor front right room – 1 person

First floor front left room – 1 person

First floor rear left room – 2 people

Second floor front right room – 1 person

Second floor front left room – 1 person

Second floor rear left room – 2 people

In order to accommodate 12 people the kitchen (and utility room) would need to contain 3 sets of kitchen facilities. This would be a requirement during the licensing process.

Building control approval will be needed for conversion and for new ensuite.

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- The principle of establishing additional space within the HMO in this location
- The design of the development and its impact on the character of the area
- The developments impact on neighbouring properties
- The developments impact on parking in the area and the wider highway network

### **Principle of Development**

- 6.02 The application site lies within the urban area of Maidstone where the principle of conversion or subdivision of existing residential dwellings into flats is accepted. Paragraph 6.54 of the Maidstone Local Plan states that 'the conversion of larger residential properties to houses in... multiple occupation HMOs aids the provision of accommodation for smaller households and contributes towards a mix and choice of homes, advocated by the NPPF'.
- 6.03 Policy DM9 of the Local Plan sets out the criteria for determining this type of application. It requires proposals that involve intensification of a building and curtilage use to show that they do not significantly harm the appearance and character or the amenity of the surrounding area.
- 6.04 There are no specific standards within the development plan relating to HMOs. However when taking into account the above policy considerations it is unlikely there would be any issues in principle with the proposed development.
- 6.05 It is also important to note that owners or managers of properties that are licensable must inform the local authority of their premises and obtain a license. This is obtained under separate housing legislation. HMOs are regulated under the Housing Act 2004. This makes sure that landlords and managing agents ensure the HMOs are safe and well managed. Maidstone has produced a standards booklet which sets out matters for consideration. The comments received from the Senior Housing & Health Officer who would grant such a licence has confirmed that due to the size of the rooms proposed that it would be possible to house 12 occupants. The proposal does not seek to maximise this number but provide accommodation for 8 occupiers, an increase of two compared to the existing permitted situation. A condition could be attached to the decision to ensure only 8 occupants can occupy the property at one time.

### **Design and visual impact**

- 6.06 The application seeks to change the use of the structure from a 6 bed C4 (HMO) to an 8 bed Sui-Generis HMO, which would include carrying out internal and minor external alterations including the enlargement of the existing dormer in the front roof slope. It is considered that the proposed internal alterations would not impact the external appearance of the building. The proposed alterations to the existing dormer would represent a minor increase in scale and would mirror the existing pitched dormer. As such it is not considered that the development would have a detrimental impact upon character and appearance of the host building or the character and appearance of the wider area.
- 6.07 Policy DM9 of the Maidstone Borough Local Plan (2017) is supportive of extensions to dwellings within urban areas provided that the scale, height, form and appearance and siting of the proposal would fit unobtrusively within the existing building and the character of the street scene/or its context.
- 6.08 The exterior surfaces will be finished in materials matching the existing house and the proposal will appear appropriate in its setting and will not detract from the visual qualities or general character of the street scene or the dwelling itself.
- 6.09 The change of use itself would initiate a very limited impact on the visual impact of the street scene.

### **Impact on neighbouring amenities**

- 6.10 Policy DM9 specifically states that domestic extensions will be supported provided that the privacy, daylight, sunlight and maintenance of a pleasant outlook of the adjoining residents would be safeguarded. This requirement is also observed in the Residential Extensions SPD (2009) where it is noted that the design of domestic alterations should not result in windows that directly overlook the windows or private amenity spaces of any adjoining properties and should also respect daylight, sunlight and outlook.

#### *Enlarged front dormer*

- 6.11 In terms of the alterations to the existing dormer window, due to the siting and orientation of the application site and the nature of the proposal it would not result in any adverse impacts in terms of loss of daylight or outlook in relation to the neighbouring property to the north. Nor would any significant increase in overlooking or loss of privacy result.

#### *Change of use (including amenity for future occupiers)*

- 6.12 Paragraph 6.55 of the Local Plan states 'the intensified use of dwellings to create smaller households can cause problems for nearby residents, for example noise and disturbance from increased traffic movements...'.
- 6.13 The building is already within use as a HMO and in this case it is not considered that the intensified use providing accommodation for two additional occupiers within a significantly sized building would result in significant harm to the amenities of the occupants of the building or the occupiers of neighbouring residential properties in terms of noise and disturbance. The property is well located within an urban area, close to the town centre.
- 6.14 The proposed bedrooms would have access to a shower room and is large enough to provide adequate space for the future occupant of the room. It is considered that the rear garden would still provide adequate outdoor amenity space for the occupiers of the building. Furthermore, a communal kitchen and living area is provided on the basement floor. Additionally when considering the dwellings



proximity to the town centre, occupants have access to amenity facilities as well as parks provided within Maidstone town centre.

### **Parking and Highways**

- 6.15 Paragraph 6.99 of the Maidstone Borough Local Plan (October 2017) states "The council adopts a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car. It also seeks to encourage innovative designs that can sufficiently demonstrate that a provision lower than the minimum standard is feasible and would not have an unacceptable adverse impact on the surrounding locality."
- 6.16 The application site is located just outside the town centre boundary, as well as bus routes within the vicinity of the property, a train station is also within 500 metres of the application site. With these factors in mind it is not considered that it is necessary to provide parking provision at the application site. As such the development will not have any detrimental impact upon parking in the area or the wider highway network.

### **Other matters**

- 6.17 There are no trees with a high amenity value that would be directly affected by this proposal, and given the nature of the site and proposed use it is not considered reasonable to request further information in respect of ecology.

## **7. CONCLUSION**

- 7.01 The development is not considered to have a detrimental impact upon the character and appearance of the wider area and the intensification of the existing use as a HMO would not be significant. The development would not impact upon the amenity of neighbouring properties or occupying residents, nor would it impact upon parking in the area or the wider highway network. As such the development is considered to be in keeping with local and national planning policies and is recommended for approval.

## **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 this 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/drawings:

Covering letter

20/288/01 Existing front elevation, site and floor plans

20/288/01 Proposed elevation, floor plans and section

Reason: To clarify which plans have been approved.

- 3) The external facing materials to be used in the construction of the extension hereby permitted shall match those used on the existing building;

Reason: To ensure a satisfactory appearance to the development.

- 4) The house of multiple occupation shall be occupied by no more than eight people.

Reason: In the interests of neighbouring residential amenity.

### **INFORMATIVES**

- i) Noise and Vibration transmission between properties

Attention is drawn to Approved Document E Building Regulations 2010 Resistance to the Passage of Sound Attention should be drawn to Approved Document E Building Regulations 2010 Resistance to the Passage of Sound as amended in 2004, 2010 & 2016. . It is recommended that the applicant adheres to the standards set out in this document in order to reduce the transmission of excessive airborne and impact noise between the separate units in this development and other dwellings.

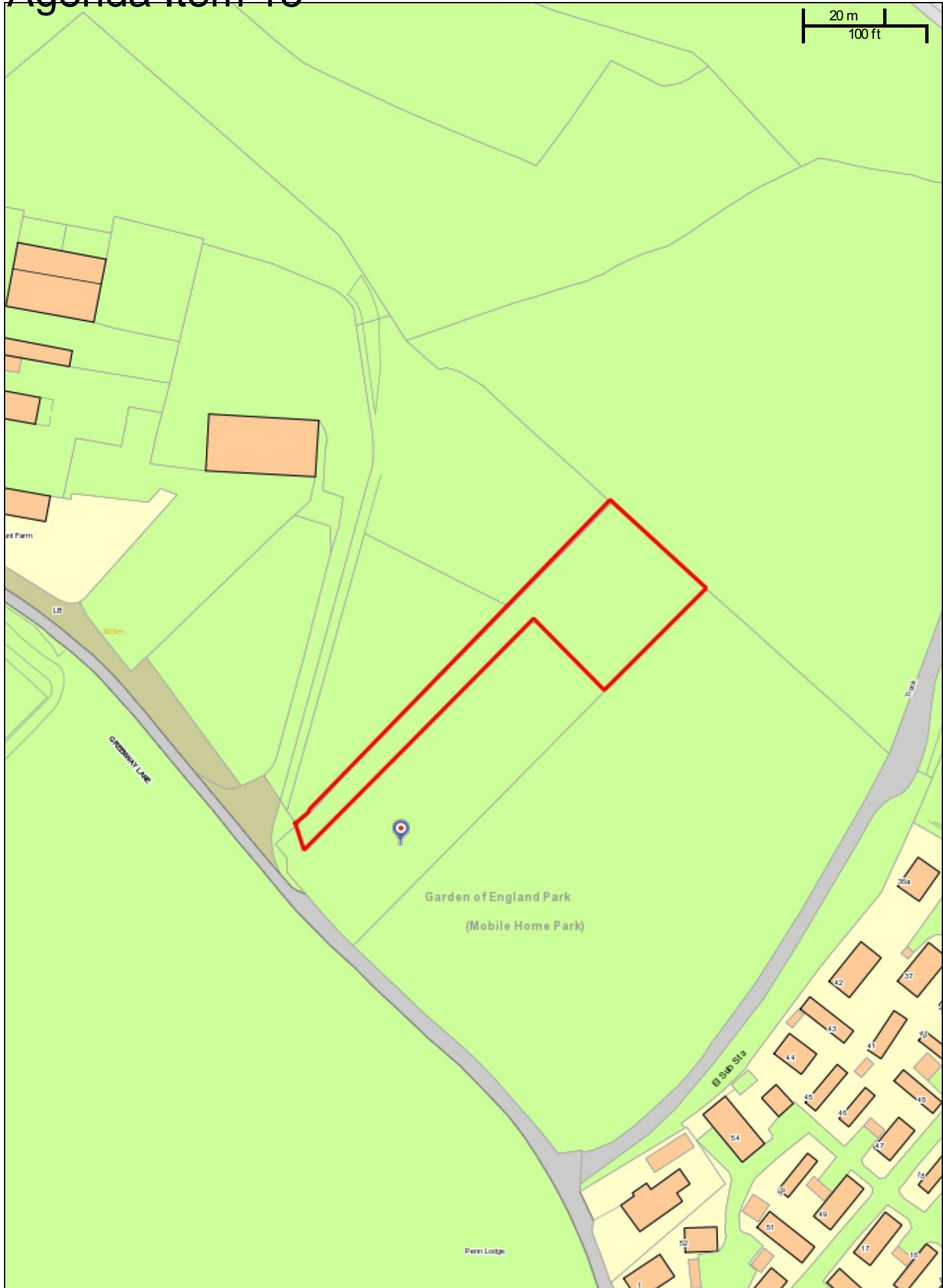
- ii) Storage of waste and recyclable materials

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager.

Case Officer: Sophie Bowden



# Agenda Item 15



20/502215/FULL - Hawthorn Place, Greenway Forstal, Harrietsham, Kent, ME17 1QA

Scale: 1:1250

Printed on: 14/9/2020 at 12:59 PM by JoannaW

<b>REFERENCE NO:</b> 20/502215/FULL		
<b>APPLICATION:</b> Relocation of 1(no) existing mobile home approved under 16/505930/FULL to rear of site, including erection of utility building and stationing of 1(no) touring caravan for use by existing residents (part retrospective).		
<b>ADDRESS:</b> Hawthorn Place, Greenway Forstal, Harrietsham, ME17 1LB		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> <p>In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, 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.</p> <p>In this instance, Hawthorn Place is an authorised (unrestricted) Gypsy site, with permission for two mobile homes, and this development will not increase the number of mobile homes but merely reposition one mobile home and erect a new utility building. It has also been established that the adult occupants of the site still meet the Government's planning definition of a Gypsy as set out in the PPTS, and there is no reasonable justification to object to the development on sustainability grounds in terms of location and reliance on the private motor vehicle to access day to day needs. Furthermore, the development is not considered to cause unacceptable harm to the character and appearance of the countryside hereabouts, subject to supplementary boundary planting.</p> <p>Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. In addition to this, 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 who occupy the caravans. Apart from what appears to be the desire to have two larger plots, there has been no other specific health, education or personal circumstances presented as part of the application in order to justify the development. This application is to merely relocate an existing lawful static caravan, and it is considered that the requirements of the PSED have been met and approving this development would not undermine the objectives of the Duty.</p> <p>With everything considered, the development is therefore acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. In consequence of this finding, a permanent permission will be granted and restricted only by a gypsy and traveller occupation condition.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Harrietsham Parish Council has requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> H/sham & Lenham	<b>PARISH COUNCIL:</b> Harrietsham	<b>APPLICANT:</b> Mr L. Austin
<b>TARGET DECISION DATE:</b> 25/09/2020 (EOT)		<b>PUBLICITY EXPIRY DATE:</b> 26/06/2020

## **RELEVANT PLANNING HISTORY**

### **Land to rear and north-west of Hawthorn Place:**

- 19/502168 - Extension to existing gypsy site, including 3 additional caravans and erection of 3 utility buildings – Refused (on visual impact and Gypsy status)

### **Hawthorn Place (applicant's site):**

- 16/505930 – Change of use of land for gypsy families and amenity building - Approved (Non-personal/permanent for 2 static caravans and 2 tourers)

### **1 & 2 Oakland Place (land to front of Hawthorn Place):**

- 19/503176 - Construction of 2no. day rooms/utility blocks - Refused (visual harm)
- 14/500696 - Remove conditions 1 & 2, and vary condition 3 of MA/07/2232 – Approved (Personal permission for 2 static caravans and 2 tourers)
- MA/07/2232 - Change of use for gypsy family – refused (allowed on appeal)

### **Land to north-west of Oakland Place:**

- 18/504491 - Erection of 2 day rooms/utility blocks – Refused (visual harm)

## **MAIN REPORT**

### **1.0 Site description**

- 1.01 The application site is on the north-eastern side of Greenway Forstal, located behind 1 and 2 Oakland place (existing lawful gypsy sites). For the purposes of the Local Plan, the site is located in the designated countryside with arable fields to the north, east and west of the site. Further to the east is the Garden of England Caravan Park, whilst to the west is a residential property known as Mount Farm and a cluster of commercial units. The Kent Downs AONB is located further away to the north of the site, beyond the railway line. The site is accessed via a shared (with the site to the front) entrance from the road. The site also falls within a KCC Minerals Safeguarding Area.
- 1.02 Planning permission 16/505930 granted unrestricted occupancy of the site for Gypsy and Traveller families, with no more than 4 caravans on site, of which no more than two shall be static caravans/mobile homes.

### **2.0 Description of development**

- 2.01 Hawthorn Place, as approved under 16/505930, has unrestricted permission for the siting of two mobile homes for Gypsy families (with 2 tourers and an amenity building). The current application seeks to extend the area of the site rearwards, and to place a mobile home, utility building, and touring caravan on the extended parcel of land. If the current application is approved, the enlarged pitch would consist of a total of 2 mobile homes (1 relocated), 3 tourers and a relocated amenity building.
- 2.02 Views of the site can be had from the road and the applicant has provided some photographs from within the site. It can be seen that the mobile home is on a dark brick plinth and largely rendered in appearance (cream colour) with a dark tiled pitched roof; it features modest bay windows; and it is positioned across the rear boundary of the site. The utility building would be sited next to the mobile home and will measure some 8mx7m (56m<sup>2</sup>), and with its mono-pitched roof it would stand at most, 3m in height. The building is shown to be timber clad with a brick plinth.

- 2.03 Under 16/505930, it was confirmed that the two static mobile homes were to be occupied by the applicant and his children, including his daughter, her partner and young son. These persons remain on the site and this application seeks more space for the applicant's other now grown up children (son and two other daughters).

### **3.0 Policy and other considerations**

- Maidstone Local Plan (2017): SS1, SP17, GT1, DM1, DM8, DM15, DM30
- National Planning Policy Framework (2019)
- National Planning Practice Guidance
- Planning Policy for Traveller Sites (2015)
- Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
- Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)
- Harrietsham Neighbourhood Plan: Pre-sub consultation withdrawn May 2015

### **4.0 Local representations**

- 4.01 No representations received.

### **5.0 Consultation responses**

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

- 5.01 **Harrietsham Parish Council:** Wish to see application refused and reported to Planning Committee if officers are minded to recommend approval for the following (summarised) reasons:

- *Development represents harmful intrusion into open countryside which would be out of keeping with general landscape and character of area and detrimental to visual amenities.*
- *In absence of information to demonstrate gypsy and traveller status of proposed occupants, accommodation is located in unsustainable location where future occupants would be reliant on private motor vehicle for their daily needs*

- 5.02 **Environmental Protection Team:** Raise no objection.

- 5.03 **KCC Minerals Safeguarding Team:** Raise no objection.

### **6.0 APPRAISAL**

#### *Main issues*

- 6.01 Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policies SP17 and DM30 allow development provided it does not result in harm to the character and appearance of the area.
- 6.02 Government Guidance set out in the Planning Policy for Traveller Sites (PPTS) places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision (as opposed to local authority provision), and it acknowledges that sites are more likely to be found in rural areas. This is an exception to the principle of restraint in the countryside. In terms of broad principles, Local Plan policies and central government guidance both permit gypsy and traveller sites to be located in the countryside as an exception to policies which otherwise seek to restrain development.
- 6.03 The Government's PPTS (August 2015) sets the planning definition of 'gypsies & travellers', and this excludes those who have ceased to travel permanently. The current definition is as follows (Annex 1):

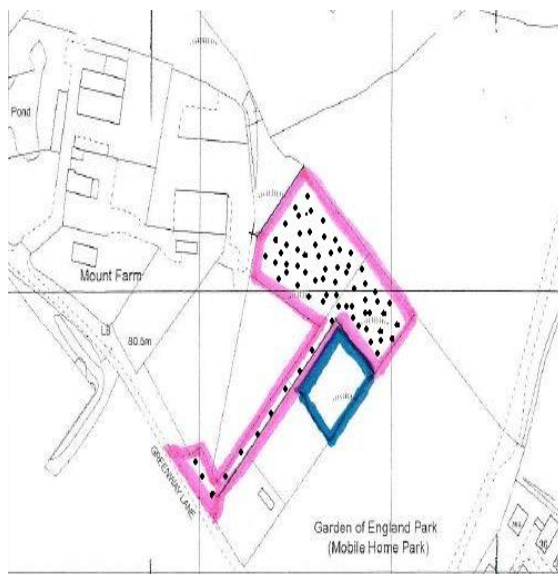
*'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show-people or circus people travelling together as such.'*

- 6.04 Under the original application for Hawthorn Place (16/505930), where permission was granted for an unrestricted Gypsy site for two mobile homes, the Gypsy status of the applicant for the purpose of the above definition was accepted. The applicant has confirmed that all adult family members continue to travel to earn a living undertaking roofing works, with this work ranging from 9-10 months per year on average.
- 6.05 As well as roofing, Mr Nye's son also trades at horse fairs (usually travelling in June and attending fairs such as Stow Fair in July and Dorset Steam Fair in Blandford). The applicant has confirmed that no children are in full-time education, given their ages. With this considered, it is reasonable to say that the occupants of the site have not ceased to travel permanently, and they still continue to travel for work purposes to make a living. It is therefore accepted that the Gypsy status has been met in accordance with the provisions of the Government's PPTS.
- 6.06 As the application site (albeit extended) is already an authorised Gypsy site with one pitch (consisting of 2 static caravans, 2 tourers and an amenity building) and the Gypsy status of the occupants is accepted, there is no reason to cover the issues of need and supply as this is based on the number of pitches rather than caravans. Furthermore, for the same reasons, it would now be unreasonable to object to the application on sustainability grounds in terms of its location as there is no proposed increase in the numbers of caravans. Therefore, in accordance with the relevant policies of the Maidstone Local Plan and central Government guidance, the main issue for consideration is the visual impact of the development.

#### Visual impact

- 6.07 Guidance in the Planning Policy for Traveller Sites (PPTS) states that local planning authorities should very strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact has been outlined however this is addressed in the relevant Local Plan policies and the NPPF. Specifically, policy DM15 of the Local Plan allows for Gypsy accommodation in the countryside provided certain criteria are met. This includes allowing development that does not result in significant harm to the landscape and rural character of the area.
- 6.08 For comparison, the two drawings below show the proposed site extension under 19/502168 (that was refused) and what is now being applied for (dotted areas):

19/502168



Current application



- 6.09 As can be seen, the development now for consideration is much more contained and in context with the linear form of existing development to the front of the site, and under 19/502168 there were 3 additional mobile homes and 3 utility buildings to assess the impact of. Furthermore, whilst the site does encroach further into the countryside, it does not extend beyond the existing field margin that acts as a natural barrier; and other development within the vicinity of the site means that the development would not appear incongruous or harmfully out of character with the prevailing pattern of sporadic development in the locality. Indeed, the development does not extend beyond the array of buildings at Mount Farm to the north-west of the site; and it does not significantly extend beyond the rear boundary of the Garden of England Mobile Home Park to the south-east. There is also what appears to be an existing plant/open storage site beyond the application site, next to the railway line, which detracts from the openness of the countryside hereabouts.
- 6.10 In terms of views, the application site is not publicly visible when approaching the site from the north-west, given existing built and natural features on the landscape and the topography of the land; and even when at the entrance of Hawthorn Place, views of the site are limited. When approaching the site from the south-east along Greenway Forstal, views of the site are only possible from the front of Penn Lodge, a property that is some 130m from the access of Hawthorn Place. Any view from the A20 to the south of the site (more than 290m away) would be minimal and very much seen in the context of existing development.
- 6.11 The public views of the site across the field are of a mobile home more than 100m away (and the proposed utility building), and whilst the south-eastern boundary of the site is largely open, the applicant has agreed to plant a native hedge along this boundary to help mitigate the impact of the development. This is considered to supplement the existing planting along north-western and rear boundaries of the site.
- 6.12 The mobile home itself is of a typical style and appearance, and not too dissimilar to other mobile homes in the vicinity of the site (including at the Garden of England site); it is located to the rear of the site; and in terms of its scale (that can be confirmed by way of condition), it appears to fall within the definition of a caravan (Section 29 of the Caravan Sites and Control of Development Act 1960). Furthermore, the palette of external materials is considered to be subdued and not visually incongruous, and it is not considered reasonable or necessary to alter the appearance of the mobile home. The utility room is considered to be of an appropriately low-key and traditional design that would appear subordinate and ancillary to the main living accommodation on the site. Its siting away from the south-eastern boundary would also help to reduce the overall visual impact of it on the landscape (particularly when the boundary planting is enhanced).
- 6.13 It is accepted that the development causes some harm to the character and appearance of the countryside. However, this development is extending the depth of an existing authorised Gypsy site by only some 30m, and the visual impact of a repositioned mobile home and new utility building is not considered to be so harmful as to warrant refusal in terms of landscape harm, when compared to the existing lawful position. Furthermore, the proposed supplementary boundary planting will sufficiently help to mitigate any harm caused as a result of this development. External lighting, hard boundary treatments, and any commercial activity on the site can also be controlled by way of appropriate condition, in the interests of visual amenity. With everything considered, the development does not have an unacceptable impact upon the character and appearance of the countryside hereabouts, in accordance with Local Plan policies SS1, SP17, DM15 and DM30.

Other matters

- 6.14 A residential use is not generally a noise generating use and this development does not involve any additional static caravans. As such, it is considered that the application would not have an adverse impact upon the living conditions of any neighbouring occupant, including in terms of general noise and disturbance.
- 6.15 The site falls within Flood Zone 1 and no objection is raised in terms of flood risk; the site will make use of an existing access and this is not considered to raise a highway safety objection; and given the current condition of the site and its context, it is not considered necessary to request any further details in terms of arboriculture and ecology. The Environmental Protection Team raises no objection to the development in terms of land contamination; radon; air quality; lighting; odour; accumulations; noise; amenity; sewage and potable water; and private water supplies. This is subject to recommended conditions for external lighting and details of the method of foul waste disposal. If this application were to be approved, these conditions are considered reasonable and they would be duly imposed.
- 6.16 The site falls within a KCC Minerals Safeguarding Area, but KCC raise no objection to the development on mineral and waste safeguarding grounds. The comments from Harrietsham Parish Council have been considered in the assessment of this application; and the development, when considered cumulatively with other lawful gypsy sites in the vicinity, would not result in it having an unacceptable impact upon, or dominating, the nearest settled community and local infrastructure, as the number of mobile homes has not increased.

Human Rights and Equality

- 6.17 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

Conclusion

- 6.18 In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, 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.
- 6.19 In this instance, Hawthorn Place is an authorised (unrestricted) Gypsy site, with permission for two mobile homes, and this development will not increase the number of mobile homes but merely reposition one mobile home and erect a new utility building. It has also been established that the adult occupants of the site still meet the Government's planning definition of a Gypsy as set out in the PPTS, and there is no reasonable justification to object to the development on sustainability grounds in terms of location and reliance on the private motor vehicle to access day to day needs. Furthermore, the development is not considered to cause unacceptable harm to the character and appearance of the countryside hereabouts, subject to supplementary boundary planting.
- 6.20 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. In addition to this, 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 who occupy the caravans. Apart from what appears to be the desire to have two larger plots, there has been no other specific health, education or personal circumstances presented as part of the application in order to justify the development. This application is to merely relocate an existing lawful static caravan, and it is considered that the requirements of the PSED have been met and approving this development would not undermine the objectives of the Duty.

- 6.21 With everything considered, the development is therefore acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. In consequence of this finding, a permanent permission will be granted and restricted only by a gypsy and traveller occupation condition.

**7.0 RECOMMENDATION:** GRANT planning permission subject to following conditions:

1. 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.

2. No more than 5 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on Hawthorn Place (the site as outlined in both red and blue on the submitted site location plan [1:1250]) at any time;

Reason: To safeguard the character and appearance of the countryside.

3. 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 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

i) Within 3 months of the date of this decision a scheme, hereafter referred to as the Site Development Scheme, shall have been submitted for the written approval of the local planning authority. The Site Development Scheme shall include details of: the scale of the mobile home (including internal head height); the external cladding material and colour/stain of the utility building; hard and soft landscaping, including new native hedge along south-eastern boundary of site, including details of species, plant sizes and proposed numbers and densities; the method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal; and external lighting.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the Site Development 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 Site Development Scheme shall have been approved by the Secretary of State.

iv) The approved Site Development Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that Scheme shall thereafter be maintained/retained.



In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To safeguard the character and appearance of the countryside.

4. No commercial activities shall take place on the land at any time, including the storage of materials. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than 6 vehicles shall be stationed, stored or parked on the site at any one time.

Reason: To safeguard the character and appearance of the countryside.

5. 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;

Reason: To safeguard the character and appearance of the countryside.

6. The development hereby permitted shall be carried out in accordance with the following plans: site location plan (1:1250); proposed site layout; and elevations/floor plan of utility building.

Reason: For the avoidance of doubt.

Case Officer: Kathryn Altieri



20/502238/FULL - Neverend Lodge, Neverend Farm, Pye Corner, Ulcombe, Kent, ME17 1EF

Scale: 1:1250

Printed on: 14/9/2020 at 12:52 PM by JoannaW



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<b>REFERENCE NO:</b> 20/502238/FULL		
<b>APPLICATION:</b> Siting of 1 additional mobile home and erection of 4-bay garage, stable block (for keeping of horses) and day room.		
<b>ADDRESS:</b> Neverend Lodge Pye Corner Ulcombe Maidstone Kent ME17 1EF		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION:</b></p> <p>In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policy SP17 allows for development provided it does not result in harm to the character and appearance of the area.</p> <p>In this instance, it has been established that the intended occupant of the proposed additional mobile home does not meet the Government's planning definition of a Gypsy as set out in the PPTS, and as such Local Plan policy DM15 is not relevant. However, the site is a lawful unrestricted Gypsy site for one residential mobile home that can be sited anywhere within the authorised site; and it is considered that the proposed development as a whole would not have an adverse impact upon the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value. It is also a material consideration that Local Plan policy GT1(16) accepts the landscape impact of one additional mobile home on the site (albeit for those who meet the Government's planning definition).</p> <p>Further to this, it is clear that the personal circumstances of the future occupant, who is a close relative of the applicant, is a consideration here; and it is important that the applicants are close-by and able to provide 24hr care. Clearly there is connection between Miss Courtney and the applicants. In this instance, it is therefore considered that significant weight is given to the accommodation needs and personal circumstances of the applicant's family, as set out, and planning permission should be granted.</p> <p>Regard has been had to the Human Rights Act 1998 and rights under Articles 3 and 8 and the Public Sector Equality Duty under the Equality Act 2010 in respect of private and family, and it is found that the proposal is acceptable, and as such there would be no violation of the human rights on this occasion. In permitting the proposal, this would allow for the stationing of an additional mobile home at an existing Gypsy site; and weighing this against public interest the site has the capacity to host an additional mobile home whilst not compromising the character and appearance of the wider countryside.</p> <p>In considering this proposal, there is a duty under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Due regard has been given to the applicants and their family's traditional way of life, as well as the issues relating to the personal circumstances, as previously set out, and it is considered that the proposal would not undermine objectives of the Duty.</p> <p>Allowing this appeal would effectively create an extra pitch at this established Gypsy site. Miss Courtney is not a bona fide Gypsy in planning definition terms and, as such, the creation of a separate planning unit within this gypsy and traveller for occupancy by a person not meeting the planning definition would not normally be considered acceptable. However, given the family link and the personal circumstances of this application, there are considered to be exceptional circumstances that lead to a recommendation of approval. However, in recognition of the exceptional circumstances, it is necessary to make this permission temporary and limit the occupation of the site to Miss Courtney, and this will be secured by way of an appropriate condition.</p>		
<p><b>REASON FOR REFERRAL TO COMMITTEE</b></p> <p>Ulcombe Parish Council has requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined in the consultation section below.</p>		
<b>WARD:</b> Headcorn	<b>PARISH COUNCIL:</b> Ulcombe	<b>APPLICANT:</b> Mr T. Deeprise
<b>TARGET DECISION DATE:</b> 25/09/2020 (EOT)		<b>PUBLICITY EXPIRY DATE:</b> 20/07/20

## **RELEVANT PLANNING HISTORY**

- MA/13/1022 - Application to approve details pursuant to conditions 3 (day room materials); 4 (foul sewage treatment); 5 (surface water disposal); and 6 (biodiversity enhancement strategy) of MA/12/1229 - Approved
- MA/12/1229 - Stationing of mobile home for residential occupation by Gypsy family and erection of dayroom and new access – Approved

### Adjacent site to east

- 19/503101 - Change of use for 8 pitch Gypsy & Traveller site comprising 1 mobile home, day room and touring caravan for each pitch – Refused (appeal in progress)

## **MAIN REPORT**

### **1.0 Site description**

- 1.01 The proposal site is located on the eastern side of Pye Corner, some 263m to the north-east of the junction with Headcorn Road. There are residential properties to the north of the site, and an unlawful Gypsy and Traveller site to the east. For purposes of the Local Plan the proposal site is within the countryside that also falls within Low Weald Landscape of Local Value. The site falls within Flood Zone 1.
- 1.02 The proposal site, known as Neverend Lodge, is a lawfully established and unrestricted Gypsy site, as permitted under MA/12/1229. The site can lawfully have 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan.

### **2.0 Proposal**

- 2.01 The proposal is for the siting of an additional mobile home, and for the erection of a 4-bay garage, stable block (4 stables) and day room. The proposed garage and stable buildings are to be located in proximity to the southern boundary of the site, next to the existing dayroom/office; and the proposed day room will be sited to the south of the mobile homes. The proposed dayroom provides a toilet, kitchen, and some amenity space.
- 2.02 In terms of materials:  
Stables – Timber weatherboard (light oak) with traditional green roof sheeting  
Garage – Timber weatherboard (light oak) with green roof sheeting  
Day room – Red brick plinth/timber weatherboard with green roof sheeting
- 2.03 The proposed mobile home is shown to be from the Stately-Albion Residential Collection. The model is referred to as the (40x20) Goodwood Range. In terms of dimensions it would measure some 12.2m by 6.1m, with an overall height of less than 3.05m. The additional mobile home will be occupied by the mother of Mrs Deeprose. Mr and Mrs Deeprose currently live on the site alone, as their children have grown up and moved away. For reference, the definition of a caravan as set out under Section 29 of the Caravan Sites and Control of Development Act 1960 states that a caravan can be up to 20m in length and 6.8m in width; with the overall height being 3.05m.
- 2.04 The proposed plans also show the already permitted mobile home sited next to the additional mobile home. Whilst the approved plans for MA/12/1229 show the mobile home to be sited close to the southern boundary of the site, there was no condition imposed to restrict this position and as such the permitted mobile home can be sited anywhere within the authorised site. To be clear, this application has not altered the site boundaries to Neverend Lodge and this application is not considering the repositioning of the already permitted mobile home.

### 3.0 Policy and other considerations

- Maidstone Local Plan (2017): SS1, SP17; GT1, GT1(16); DM1; DM3; DM8; DM15; DM30; DM32; DM41
- National Planning Policy Framework (2019) & Planning Practice Guidance
- Planning Policy for Traveller Sites (2015)
- Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)
- Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)

### 4.0 Local representations

4.01 One representation received from a neighbour raising following (summarised) issues:

- *Land ownership/rights of access*
- *Site is not allocated for development in Local Plan*
- *Development is retrospective*
- *Highway safety*
- *Who will occupy the mobile homes*
- *Visual impact*
- *Foul sewage disposal, electricity and water supplies*

### 5.0 Consultation responses

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

5.01 **Ulcombe Parish Council:** Object to proposal and has requested for application to be reported to Planning Committee:

- *Proposal should be considered in same way as other near-by Gypsy and Traveller sites (referring to 19/503101 - Land rear of Little Neverend Farm, Pye Corner)*
- *Proposal would result in significant harm to character, appearance and quality of rural landscape which is a landscape of local value*
- *Permission should not be given as there is a cumulative and dominant impact of lawful caravans on settled community*
- *Site is not in Local Plan 2017 and there are no overriding reasons to accept it*
- *Residential amenity impacts*
- *Site is in unsustainable location*
- *No evidence Gypsy status is met*
- *There is no obvious need for development*

5.02 **KCC Biodiversity Officer:** Raise no objection.

5.03 **KCC Highways:** Has considered proposal and its effect on highway network and raises no objection.

5.04 **Environmental Protection Team:** Raise no objection.

5.05 **Environment Agency:** Has no comments to make.

### 6.0 APPRAISAL

#### *Main issues*

6.01 The proposal site is a lawfully established and unrestricted Gypsy site, as permitted under MA/12/1229. The site can lawfully have 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan. As set out above, the repositioning of the already permitted mobile home is not for consideration here. This application is only considering the additional mobile home, and the proposed garage, stables and day room.

- 6.02 In the Government's Planning Policy for Traveller Sites (PPTS), the planning definition of 'Gypsies & Travellers' excludes those who have ceased to travel permanently. The current definition is as follows;

*"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show-people or circus people travelling together as such."*

- 6.03 The definition still includes those who are of a nomadic habit of life, who have ceased to travel temporarily because of their own, or their dependants, health or education needs or old age. To determine whether someone falls within the definition (in terms of ceasing to travel temporarily), the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.04 The applicants currently occupy the site, as they did under MA/12/1229, when at this time their Gypsy status was accepted. Whilst this proposal is not considering the impact of the already permitted mobile home, for clarity's sake, the applicants continue to travel for work purposes to make a living, trading in antiques and cars. In general terms, their work can take them across the UK and France; they are usually away a couple of days a week throughout the year. When attending fairs, this can increase up to 3-4 days a week, around four or five times a year. The applicant's Gypsy status continues to be accepted in accordance with the provisions of the Government's PPTS.
- 6.05 The additional mobile home will be occupied by a close relative of the applicant Miss Mary Courtney, who has a serious medical condition and medical needs. Miss Courtney currently lives outside of the Maidstone borough and now requires regular care. Permitting this application will allow her to be closely cared for by the applicants. Miss Courtney has permanently ceased to travel for work purposes and does not therefore meet the Government's Gypsy status definition.
- 6.06 On this basis, the proposal's impacts will not to be considered against Local Plan policy DM15 or the Government's PPTS; and there is no reason to cover the issues of supply and need, in terms of Gypsy accommodation.
- 6.07 Local Plan policy seeks to protect the rural character of the borough and development in the countryside will not be permitted unless (inter alia) it accords with other policies in the Local Plan; it will not result in harm to the character and appearance of the area; and it will respect the amenities of occupiers of neighbouring properties. Local Plan policies also seek for new development to maintain, or where possible, enhance the local distinctiveness of an area; and the distinctive landscape character of Landscapes of Local Value should be conserved and enhanced. Local Plan policy DM32 relates to new domestic outbuildings; and policy DM41 relates to equestrian development.
- 6.08 Whilst not relevant here, because the intended occupant of the additional mobile home does not meet the Government's Gypsy status definition, it is still a material consideration that the site is allocated in the Local Plan (policy GT1[16]) for the addition of one permanent pitch subject to certain criteria.

#### *Sustainability*

- 6.09 The proposal site is an existing lawful Gypsy site and so the principle for Gypsy accommodation here has already been established. Furthermore, Local Plan policy GT1(16) also supports the addition of one mobile home on this site for Gypsies subject to certain criteria. With this considered, it would now be unreasonable to object to an additional mobile home on the grounds of the site's location.

*Visual impact*

- 6.10 The proposal site is an existing (unrestricted) lawful Gypsy site for one mobile home that can be sited anywhere within the authorised site. This application is only considering the landscape impact of the additional mobile home, and the garage, stable block, and day room.
- 6.11 The two mobile homes would be sited close together, just to the south of the existing parking area near the access, and adjacent to the existing driveway. The proposed dayroom would be located just to the south of the mobile homes. The proposed garage and stables would be sited at the southern end of the site, set close to the existing dayroom/office.
- 6.12 The proposed stables and garage would be grouped with existing buildings on the site, and their scale and traditional designs are low-key and sympathetic to the context of the site and its surroundings. Whilst the additional mobile home and proposed dayroom are more centrally located within the site, the scale and appearance of the mobile home is typical and not objectionable; and the day room is again a low key and appropriately designed building that is appropriately sized for its intended ancillary use.
- 6.13 Furthermore, the proposal would keep new development close to existing buildings and areas of hardsurfacing; the areas of pond and landscaping buffers the proposal from the road; and the retained undeveloped nature of the site to the east would be retained. As such, the relatively large site would continue to have an open and spacious feel; and given how enclosed the site already is by existing well-established boundary planting, public views of the proposal would be minimal, if any. To further safeguard the amenity of the area, suitable conditions will also be imposed for additional (native) planting within the site; and external lighting will be restricted.
- 6.14 It is therefore considered that the proposal would not appear visually intrusive or incongruous from any public vantage point, and it would not harmfully detract from the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value.

*Biodiversity implications*

- 6.15 The proposal site is in the countryside and it does include a pond. Concern was initially raised by the Biodiversity Officer that the proposal may have a negative impact on protected/notable species. However, after reviewing current site photos, it is clear the site is regularly mown grassland and hardstanding, and as such, the Biodiversity Officer is satisfied that there is no requirement for any ecological surveys to be carried out as part of this application. There is suitable habitat for protected species within the surrounding area and it is advised that if approved, the site is continued to be mown regularly until construction works commence to ensure suitable habitat for protected species does not establish within the site. A suitable informative will be added to advise the applicant of this. On this basis, no objection is raised to the proposal in ecological terms and no further details are required on this matter.

*Other matters*

- 6.16 The site is a lawful Gypsy site with its own existing access on to the highway. A residential use is not generally a noise generating use and it is considered that the addition of one mobile home here would not have an adverse impact upon the living conditions of any neighbouring occupant, including in terms of general noise and disturbance; and the proposal would not result in an unacceptable highway safety issue. The proposal site is a lawful Gypsy site and it is not considered that the addition of an additional mobile here, would result in it having an unacceptable impact upon the existing residential community, when considered cumulatively with other lawful gypsy sites in the vicinity.

- 6.17 The site falls within Flood Zone 1 and no objection is raised in terms of flood risk; foul sewage will be disposed of by way of septic tank (as existing); there are no arboricultural issues; and the Environmental Protection Team has raised no objection in terms of noise, land contamination, lighting, odour, radon, flies, accumulation and amenity.
- 6.18 Horses are already kept on site and so it is considered unnecessary to now request further details in terms of manure storage and how run-off from the stable, hardstandings, manure heaps, stable washings and hay soaking areas will be dealt with; there is adequate provision made for the safety and comfort of the horses in terms of size of accommodation and land for grazing and exercising; and access to the countryside and bridleways is not difficult.
- 6.19 The representations made by Ulcombe Parish Council and a local resident have been considered in the assessment of this application. It should be noted here that issues surrounding land ownership and rights of way disputes are private matters to be dealt with by the relevant parties involved; and issues of electricity and water supplies are also private matters. Furthermore, comparisons have been made between this site and a near-by unlawful Gypsy site, but it must be made clear that every individual planning application must be considered on its own merits against current policy/guidance.

*Conclusion*

- 6.20 In Local Plan policy terms, there is resistance to residential caravans in the countryside. As an exception to this general policy constraint, Local Plan policy DM15 allows for gypsy and traveller accommodation in the countryside provided certain criteria are met; and policy SP17 allows for development provided it does not result in harm to the character and appearance of the area.
- 6.21 In this instance, it has been established that the intended occupant of the proposed additional mobile home does not meet the Government's planning definition of a Gypsy as set out in the PPTS, and as such Local Plan policy DM15 is not relevant. However, the site is a lawful unrestricted Gypsy site for one residential mobile home that can be sited anywhere within the authorised site; and it is considered that the proposed development as a whole would not have an adverse impact upon the character and appearance of the surrounding countryside hereabouts that falls within the Low Weald Landscape of Local Value. It is also a material consideration that Local Plan policy GT1(16) accepts the landscape impact of one additional mobile home on the site (albeit for those who meet the Government's planning definition).
- 6.22 Further to this, it is clear that the personal circumstances of the future occupant, who is a close relative of the applicant is a consideration here; and it is important that the applicants are close-by and able to provide 24hr care. Clearly there is connection between Miss Courtney and the applicants. In this instance, it is therefore considered at significant weight is given to the accommodation needs and personal circumstances of the applicant's family, as set out, and planning permission should be granted.
- 6.23 Regard has been had to the Human Rights Act 1998 and rights under Articles 3 and 8 and the Public Sector Equality Duty under the Equality Act 2010 in respect of private and family, and it is found that the proposal is acceptable, and as such there would be no violation of the human rights on this occasion. In permitting the proposal, this would allow for the stationing of an additional mobile home at an existing Gypsy site; and weighing this against public interest the site has the capacity to host an additional mobile home whilst not compromising the character and appearance of the wider countryside.



- 6.24 In considering this proposal, there is a duty under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Due regard has been given to the applicants and their family's traditional way of life, as well as the issues relating to the personal circumstances, as previously set out, and it is considered that the proposal would not undermine objectives of the Duty.
- 6.25 Allowing this application would effectively create an extra pitch at this established Gypsy site. Miss Courtney is not a bona fide Gypsy in planning definition terms and, as such, the creation of a separate planning unit within this gypsy and traveller for occupancy by a person not meeting the planning definition would not normally be considered acceptable. However, given the family link and the personal circumstances, there are exceptional circumstances that lead to a recommendation of approval. However, in recognition of the exceptional circumstances, it is necessary to make this permission temporary and limit the occupation of the site to Miss Courtney, and this will be secured by way of an appropriate condition.

**7.0 RECOMMENDATION:** GRANT planning permission subject to following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this 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 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 three caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans, and no further caravans shall be placed at any time anywhere within the site. The additional caravan hereby permitted shall not be occupied by any persons other than Miss Mary Courtney, and it shall be removed from the site within 3 months of Miss Mary Courtney ceasing residency of the caravan.

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

4. The buildings hereby approved shall be constructed with the external materials as shown on drawing ref: CJB/ME171EF/TP1a and the additional caravan shall be of the appearance as submitted. The development shall be maintained as such thereafter;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

5. Prior to the occupation of the additional mobile home hereby approved, details of a scheme of landscaping (using indigenous species) which shall include indications of all existing trees and hedgerows on the land, and details of any planting to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:

- i) Location, species, number and size of all new trees and shrubs to be retained and planted; and
- ii) Retention and enhancement of boundary planting.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the additional caravan hereby approved, or following the commencement of works for either the garage, stables or day room hereby approved, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, 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: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value.

8. No external lighting, whether temporary or permanent, shall be placed or erected within the site at any time.

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value and in the interest of amenity.

9. 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;

Reason: To safeguard the character and appearance of the countryside that falls within the Low Weald Landscape of Local Value and in the interest of amenity.

10. The development hereby permitted (including the site layout) shall be carried out in accordance with the following plan: CJB/ME171EF/TP1a.

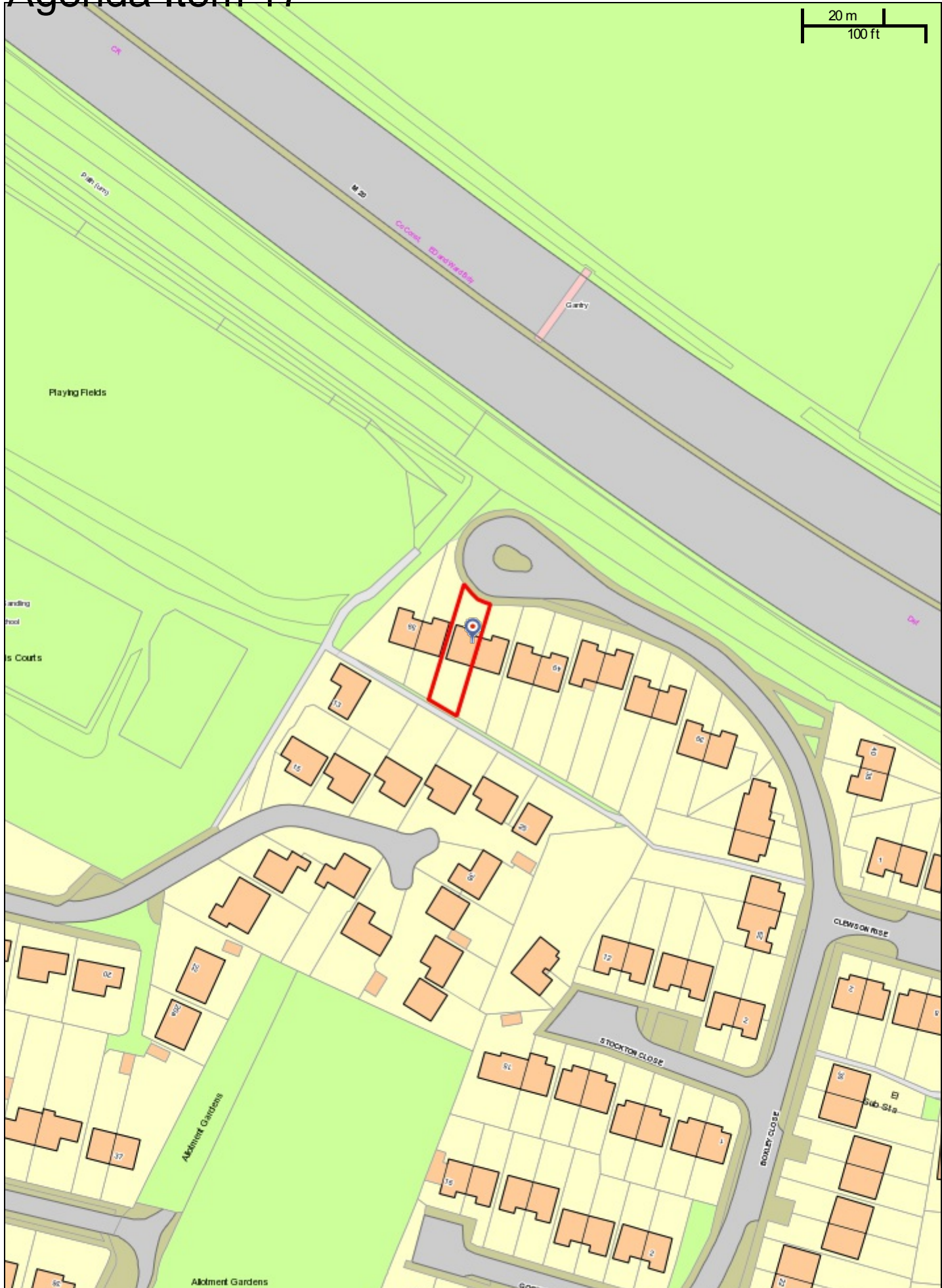
Reason: For the avoidance of doubt.

#### INFORMATIVES:

- 1. There is suitable habitat for protected species within surrounding area and the applicant is advised to continue regularly mow the site until construction works commence to ensure suitable habitat for protected species does not establish within the site.
- 2. Manure should be stored at least 10m away from any watercourse and sited in accordance with the Code of Good Agricultural Practice for the protection of Waters in order that there is no risk of polluting run-off entering either ground or surface waters and causing pollution. It should be noted that any containers for the storage of animal waste should be sheeted to prevent nuisance from odour and/or flies. In addition, waste should be accumulated for a minimal time only before disposal and should be stored at a location on site which will minimise the likelihood of nuisance being caused to neighbours.
- 3. The applicant is advised to refer to a copy of the Environment Agency's Pollution Prevention Guidelines, PPG24 Stables, Kennels & Catteries, available on their website.

Case Officer: Kathryn Altieri

# Agenda Item 17



20/503160/FULL - 55 Boxley Close, Maidstone, Kent, ME14 2DP

Scale: 1:1250

Printed on: 14/9/2020 at 13:49 PM by JoannaW

<b>REFERENCE NO -</b> 20/503160/FULL		
<b>APPLICATION PROPOSAL</b> Creation of first floor front extension, alterations to rear windows and doors, insertion of 2no. windows to side at first floor and internal alterations. (Revised scheme to 19/502796/FULL)		
<b>ADDRESS</b> 55 Boxley Close, Maidstone, Kent, ME14 2DP		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposed development accords with the policies and guidelines relating to domestic extensions and there is a similar addition to the neighbouring property.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The applicant has declared on the application form that they are the spouse of an employee of Maidstone Borough Council and therefore the decision cannot be made under delegated powers.		
<b>WARD</b> North	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mrs Anita Seeley <b>AGENT</b> Mr Tim Spencer
<b>TARGET DECISION DATE</b> 30.09.20		<b>PUBLICITY EXPIRY DATE</b> 20.08.20

#### **Relevant Planning History**

19/502796/FULL - Creation of first floor front extension, alterations to rear windows and doors, insertion of 2no. windows to side at first floor and internal alterations. – Approved 29.08.19

#### **Enforcement History:**

No enforcement history.

#### **Appeal History:**

No previous appeals.

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The application site comprises a semi-detached 2-storey house located to the southern side of Boxley Close. The dwelling is part of a comprehensive housing development that was approved in the 1960's and the appearance of the houses is typical of the prevailing design at the time. The adjacent dwelling, No.57 has been the subject of a very similar extension to that proposed here. The northern side of this part of Boxley Close is defined by mature trees and landscaping and beyond this is the M20.
- 1.02 In terms of the local plan, Boxley Close is located within the urban area and is not subject to any specific designations.

#### **2. PROPOSAL**

- 2.01 This application is a revised scheme of permission 19/502796/FULL. It still seeks permission to add a first floor extension to the front of the property. There is an

existing single storey, flat roof projection to the front of the dwelling that provides a porch and part of the lounge and the proposal will extend above this to the same footprint. The addition will have a gabled roof form that will be 0.65m lower than the ridge height of the dwelling. The extension will facilitate the enlargement of an existing bedroom. Internally, the first floor will be reorganised to provide an ensuite bathroom and the existing bathroom and separate WC will be adjusted to form one room. To this end, it is proposed to infill the existing first floor rear window that serves the WC. On the rear ground floor elevation, the existing patio doors will be widened. The plans also detail the provision of 2 windows on the flank elevation of the dwelling to serve the stairway and the newly provided en-suite bathroom.

- 2.02 The external finishes of the proposals have been amended in this submission to go from brick & weatherboard on the front elevation to grey weatherboard at first floor level and white render at ground floor level.

- 2.03 The differences between the approved scheme and the current proposed scheme are: Materials

Approved scheme – North Elevation – Materials proposed were brick to ground floor level and weatherboard to first floor level.

Current Scheme – North Elevation – Materials proposed white render at ground floor level and grey weatherboard to first floor level.

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017: DM1; DM9; DM23  
Supplementary Planning Documents: Residential Extensions (2009)  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 No representations have been received from local residents as a result of the consultation process.

### **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 Public Rights of Way Officer**

- 5.01 Public Rights of Way KB7 footpath runs outside the southern boundary of the site and should not affect the application.

### **6. APPRAISAL**

#### **Main Issues**

- 6.01 Planning permission has already been granted for a similar proposal under permission 19/502796/FULL. The key issues for consideration for the previous proposal related to:
- The design and visual impact of the proposal

- The potential impact upon the amenities of neighbouring householders.
- 6.02 The current proposal only amends the external finishes of the materials. The form, size, design and window proposals in the proposed extension are all unaltered from the previous permission. The external finishes have been amended in this submission to go from brick & weatherboard on the front elevation to grey weatherboard at first floor level and white render at ground floor level.

### **Design and Visual Impact**

- 6.03 Policy DM9 of the Maidstone Borough Local Plan (2017) is supportive of extensions to dwellings within urban areas provided that the scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building and the character of the street scene and/or its context. In advising on front extensions, the SPD Residential Extensions (2009) notes that where acceptable, such additions should respect the scale of the building to which it is attached and the roof should be of the same form and should not diminish the character of the street scene.

- 6.04 The committee report for the original permission (19/502796) stated that:

*"The proposed first floor extension has been designed to be proportionate to the existing ground floor projection of the dwelling and incorporates a roof form that is complimentary to the original house with a height that is 0.65m lower than the ridge line of the main property. The additional windows to the flank elevation and rearrangement of the patio doors and windows on the rear elevation will not be visible within the streetscene.*

*Accordingly, the proposed extension and window alterations will not dominate the appearance of the dwelling. In addition, an extension of very similar design and proportions has been added to the neighbouring property (no.57). In view of these factors, the proposal will appear appropriate in its setting and will not detract from the visual qualities or general character of the streetscene."*

- 6.05 As the current proposal is for the same design, the same assessment applies to this proposal. The proposed new materials to the front elevation go from brick & weatherboard on the front elevation to grey weatherboard at first floor level and white render at ground floor level, are minimal changes that are not considered to have an adverse impact on design and visual appearance. Indeed, there is a varied material palette in this area, including bricks, weatherboarding, tile hanging and some render. Therefore, the proposed amended materials are considered to blend in. Therefore, the proposal is still considered acceptable in relation to design and visual impact.

### **Impact upon neighbouring amenities**

- 6.06 The amended materials to the proposal will not adversely impact residential amenity, as it has no impact on privacy, overlooking, sunlight/daylight or noise issues. The same assessment undertaken for permission 19/502796 will, therefore, still apply:

*"Policy DM9 specifically states that domestic extensions will be supported provided that the privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded. This requirement is also observed in the SPD Residential Extensions (2009) where it is noted that the design of domestic alterations should not result in windows that directly overlook the windows or private amenity spaces of any adjoining dwelling and should also respect daylight, sunlight and outlook.*

*In terms of the first floor front extension, this will be set in from the common boundary with no.53 by 2.75m and 1.8m from the flank wall of the front projection at no.57. No windows are proposed in the side elevations of the first floor front extension. The front elevations of the houses on this part of Boxley Close face to the north. Overall, in view of these separation distances and the location of windows at the adjacent properties together with the orientation of the dwellings, there are unlikely to be any significant impacts upon the amenities of the adjacent householders.*

*In respect of the new windows to the flank elevation of the dwelling, these will relate to a stairway and bathroom. There is a first floor window to the flank elevation of no.57. Given the relationship with the adjacent dwelling and in consideration of the rooms to which the windows will relate, it would be reasonable to include a condition which requires these new windows are fitted with obscured glazing. There are no apparent issues regarding the alterations to the windows on the rear elevation of the dwelling as these openings already exist and are merely being removed or in the case of the patio doors, modestly increased in size. In balancing this issue, I am mindful that there have been no objections from the neighbouring householders”.*

- 6.07 In conclusion, therefore, the similarities between the proposals ensures that there is no adverse impact on residential amenity as a result of this revised application, which relates only to external materials.

### **Other Matters**

- 6.08 As for the previous 2019 permission, "Policy DM9 requires that a satisfactory provision of parking is available for proposed developments. In this case, no additional rooms are being provided for this dwelling and therefore I conclude that the parking spaces on the existing driveway are sufficient. In addition, the comments from KCC Public Rights of Way Officer indicate that this proposal will not have any implications for the adjacent public footpath and therefore this issue requires no further assessment”.
- 6.09 No biodiversity condition is imposed as the proposal is a first floor extension and so it does not utilise any additional footprint or involve the loss of garden land. Furthermore, as the proposal is so similar to the previous proposal, it is considered that only conditions similar to those imposed on the 2019 permission are reasonable to impose on this scheme.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.10 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 above assessments indicate that the proposed first floor addition and alterations to 55 Boxley Close accord with the relevant policies and guidelines on residential extensions. There have been no objections from the neighbouring householders or any consultees. The minor amendments to the external appearance of the scheme due to a change in materials at ground and first floor level is not considered to result in the proposal being unacceptable.

- 7.02 On balance, this is an acceptable development and approval is therefore recommended subject to the condition (also imposed on the previous permission 19/502796) regarding the use of obscure glazing to the new windows on the flank elevation.

## **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 this 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: 19035AS-PP-01; 19035AS-PP-02; 19035AS-PP-03; 19035AS-PP-04; 19035AS-PP-05; 19035AS-PP-06; 19035AS-PP-07; 19035AS-PP-08; 19035AS-PP-09; 19035AS-PP-10; 19035AS-PP-11; 19035AS-PP-12; 19035AS-PP-13; 19035AS-PP-14; 19035AS-PP-15; 19035AS-PP-16.

Reason: To clarify which plans have been approved.

- 3) The materials to be used in the development hereby approved shall be as indicated on the application form unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

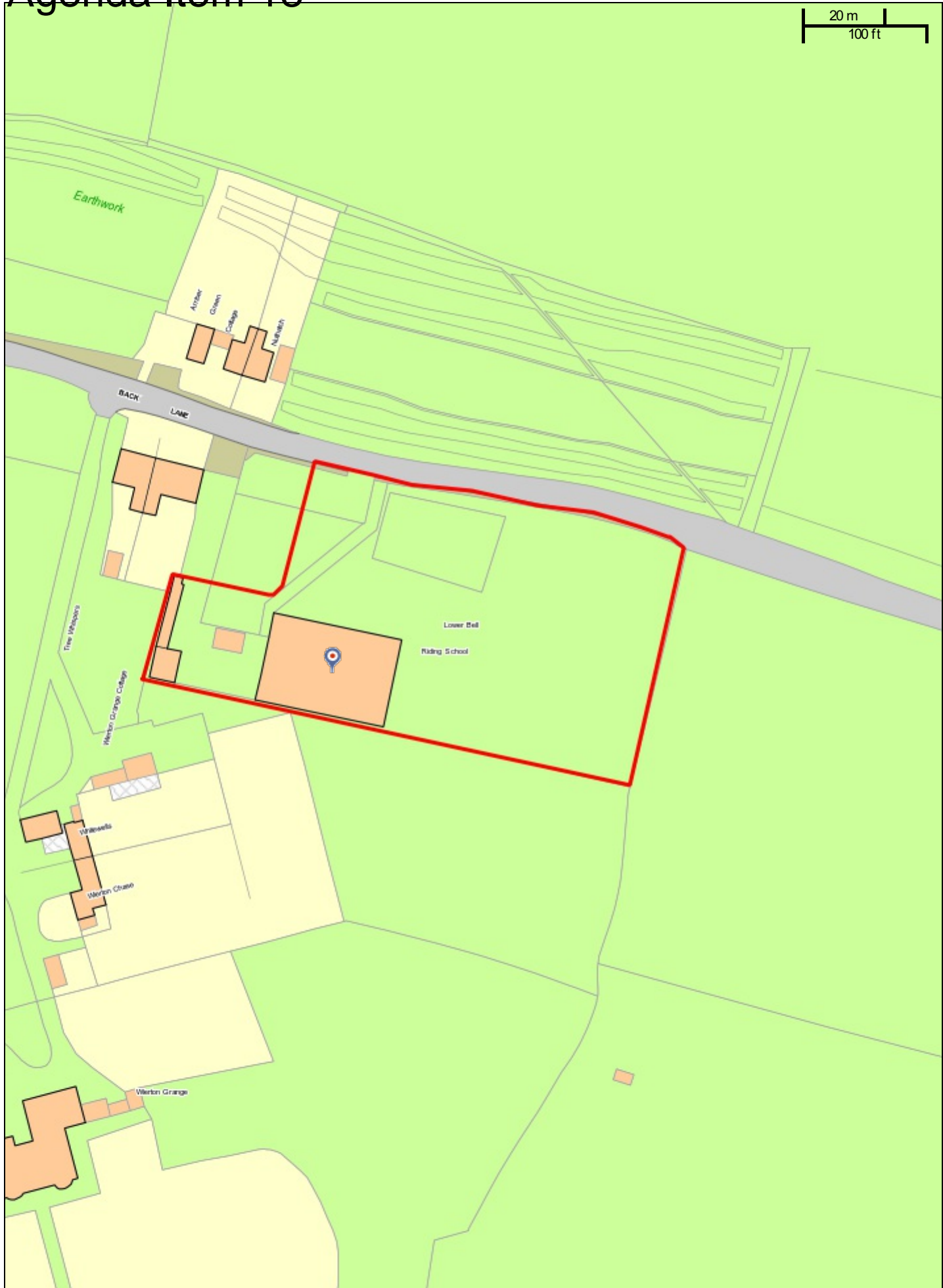
- 4) Before the development hereby permitted is first occupied, the proposed windows in the western flank elevation of the dwelling, shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of existing and prospective occupiers.

Case Officer: Joanna Woods



# Agenda Item 18



20/502032/FULL - Lower Bell Riding School, Back Lane, Boughton Monchelsea, Maidstone, Kent

Scale: 1:1250

Printed on: 14/9/2020 at 13:31 PM by JoannaW

<b>REFERENCE NO – 20/502032/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing site structures (barn, stables, mobile home, shed) and erection of 3 dwellings with accompanying parking and landscaping (resubmission of 19/506110/FULL).		
<b>ADDRESS</b> Lower Bell Riding School, Back Lane, Boughton Monchelsea, Maidstone ME17 4JR		
<b>RECOMMENDATION</b> Grant Permission subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> This revised development has addressed the previous grounds for refusal. The proposal is acceptable in relation to the potential impact on the application site, the development is acceptable in relation to visual impact or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton Monchelsea Parish Council wish to see the application refused and if officers are minded to approve wish to see the application reported to MBC planning committee for the reasons set out at paragraph 5.1 of this report.		
<b>WARD</b> Boughton Monchelsea and Chart Sutton Ward	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Mr Kayani  <b>AGENT</b> Mr Felix Lewis
<b>TARGET DECISION DATE</b> 30/09/2020		<b>PUBLICITY EXPIRY DATE</b> 23/06/2020

#### Relevant Planning History

19/506110/FULL Demolition of existing site structures (barn, stables, mobile home, shed) and erection of 3 dwellings with accompanying parking and landscaping. – REFUSED 19/02/2020:

By reason of its scale, design and layout, the development of three residential dwelling, associated development and large car ports represents an intensive form of urban development that would substantially diminish the rural character and appearance of the site and the local area and would be contrary to the established local pattern of development. The proposal would be contrary to policies DM1 and DM30 of the adopted Maidstone Borough Local Plan (2017) and Paragraphs 124, and 127 of the NPPF which aim to promote good quality design.

14/503953/FULL Erection of 4 no. dwelling houses. REFUSED 25/11/2014:

1.The development of this site for housing would represent domestication of the rural character of the area and unacceptably add to sporadic residential development in the

countryside. This would result in significant harm to the countryside contrary to Policy ENV28 of The Maidstone Borough-Wide Local Plan 2000; and the advice in paragraphs 17 and 109 of the National Planning Policy Framework 2012 that planning should recognise the intrinsic character and beauty of the countryside.

2.The development proposed is contrary to the advice in paragraph 55 of the National Planning Policy Framework 2012 in that the development would occupy an unsustainable location, poorly related to basic services and public transport, so that occupiers would be reliant on the private motor car to access their basic services.

Appeal 3003476 Dismissed 03/06/2015

02/1084 An outline application for 1 no. detached dwelling with all matters reserved for future consideration (resubmission of MA/01/0928). REFUSED 17/06/2002:

Give that a functional requirement for a further dwelling has not been established and the financial sustainability of the enterprise has not been demonstrated the proposal would involve unjustified residential development within the open countryside detrimental to the character and appearance of the countryside and contrary to the Central Government advice contained within Planning Guidance Note 7 entitled 'The Countryside Environmental Quality and Economic and Social Development', policies ENV1, and RS5 of the Kent Structure Plan 1996 and policy ENV28, of the Maidstone Borough Wide Local Plan 2000.

Appeal 1110687 Dismissed 01/07/2003.

## **MAIN REPORT**

### **1 DESCRIPTION OF SITE**

- 1.01 The site is in an area of countryside approximately 1km south east of Boughton Monchelsea, a designated 'Larger Village' in the adopted Local Plan. Chart Sutton is located 0.6km to the east.
- 1.02 The site is occupied by a riding school located on the south side of Back Lane. The site has a number of stables, storage buildings a large barn and other ancillary equestrian facilities arranged around a courtyard which are setback some distance from the road and a hard surfaced parking area on the road frontage.
- 1.03 The western half of the site, where the buildings are located, wraps around between the rear (south) of the adjacent residential property called Wierton Grange Cottage (and side garden land that includes an ancillary mobile home fronting the road) and to the front (north) of the residential properties called Whitewells Wierton Chase and Wierton Grange. Adjacent to Wierton Grange Cottage to the west is a residential property called Tree Whispers with two further residential properties located on the opposite (north) side of Back Lane (Amber Green Cottage and Nuthatch).
- 1.04 The eastern half of the site consists of an open paddock surrounded by low timber fencing.

**Existing view of the site from Back Lane**



**2. PROPOSAL**

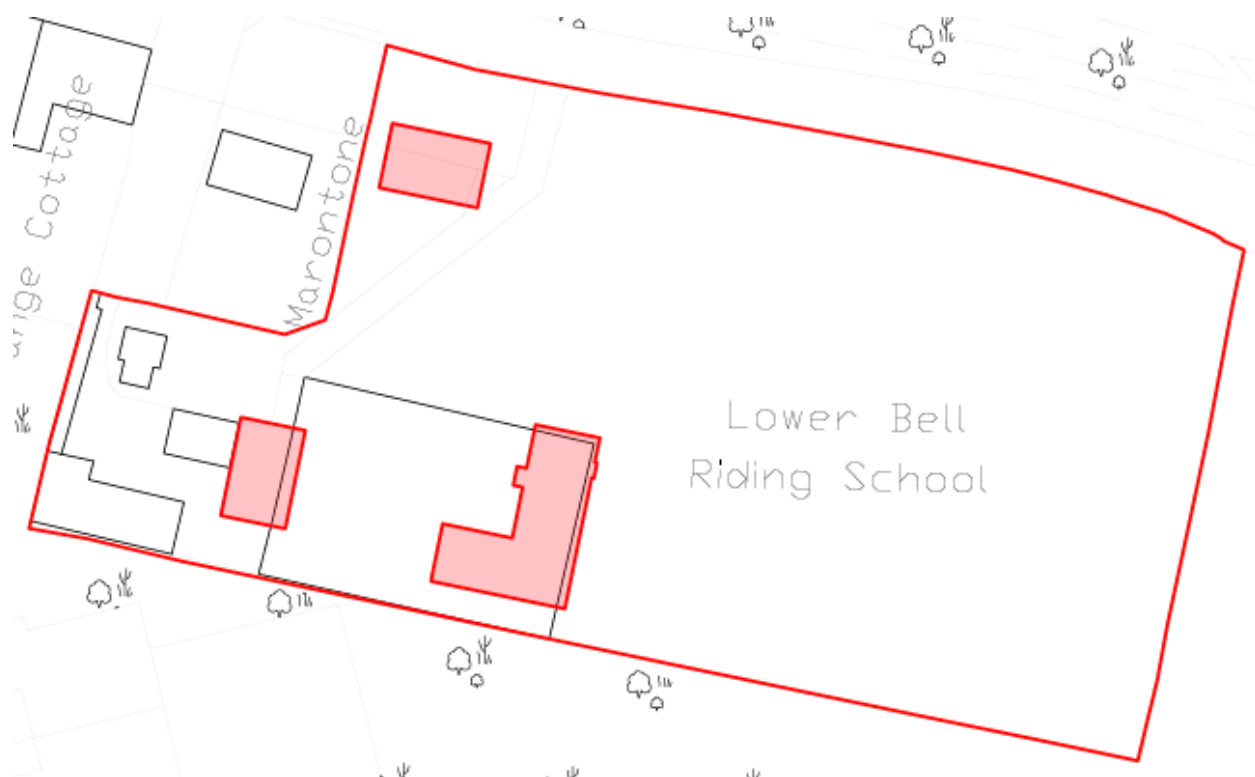
- 2.01 The application seeks the removal of the existing buildings on site which are a barn, stables, mobile home and shed. The proposal would then construct 3 dwellings with accompanying parking and landscaping. The application is a resubmission of 19/506110/FULL.
- 2.02 The agent has provided the following calculations with regards to the existing structures and the proposed. The riding school building has a volume of  $4,972\text{m}^3$  the stable buildings a total of  $901\text{m}^3$  ( $429+331+140$ ) with the central shed possessing a volume  $152\text{m}^3$  and the mobile a volume of  $73\text{m}^3$ . As such the existing structures on site have a total volume of  $5962\text{m}^3$ .
- 2.03 With regards to the proposed dwellings, dwelling type A (south eastern) has a volume  $1048\text{m}^3$ , dwelling type B (northern house)  $605\text{m}^3$ , dwelling type B (south western)  $605\text{m}^3$ , resulting in a total of 2,060 cubic metres. Based on the above the development would reduce the scale of built form in the countryside by two thirds.

**3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017:

SP17 (Countryside)  
DM1 (Principle of Good Design)  
DM2 (Sustainable Design)  
DM3 (Natural Environment)  
DM5 (Development on Brownfield Land)  
DM8 (External Lighting)  
DM12 (Density of Housing Development)

**Proposed buildings (shaded) and existing buildings on the site to be removed.**



**4. LOCAL REPRESENTATIONS**

**Local Residents:**

4.01 Four representations were received as a result of the initial neighbour consultation, one in support, one neutral and two objecting to the development.

4.02 The issues raised in objections can be summarised as the following:

- The capacity of physical infrastructure, in this instance, that the development would cause detrimental flooding. Representations that support the development overall, also raise concerns regarding the sewer network in the area and its capacity.
- The design of the development is not in accordance with local planning policies.
- The development would take place on contaminated land
- The development would have a detrimental impact upon wildlife on site.
- The applicant's future plans for the site, in terms of further housing development.

- Inaccurate site boundaries.

## **5. CONSULTATIONS**

### **Boughton Monchelsea Parish Council**

- 5.01 Objection The Parish Council wish to see the application refused for the following (summarised) planning reasons and wish to see it reported to MBC planning committee for decision:
- 5.02 By reason of its scale, design and layout, would have a harmful impact upon the application site as well as the wider area and be contrary to policies SS1, SP17, DM1 and DM30 of the adopted MBC Local Plan and paragraphs 124, 127 and 170 of the NPPF which aim to promote good quality design and conserve and enhance the natural environment.
- 5.03 The proposal would be contrary to policy SS1 of the MBC Local Plan and paragraphs 78 and 79 of the NPPF by introducing new dwellings into an unsustainable location which is poorly served by basic services and public transport.

### **Environmental Protection**

- 5.04 No objection subject to planning conditions relating to measures to be taken to deal with the emission of dust, odours or vapours arising from site, as well as full details on the proposed method of foul sewage treatment, details of how manure is stored and disposed of, restriction on the hours of work on site and external lighting.

### **KCC Ecology**

- 5.05 No objection subject to conditions regarding mitigation measures for roosting bats and biodiversity enhancements

### **KCC Archaeology**

- 5.06 No objection subject to a condition requiring an archaeological watching brief.

### **KCC Highways**

- 5.07 No objection as his development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

### **KCC Minerals**

- 5.08 Objection: The application site is not within 250m of any safeguarded mineral or waste facility, however the consultee requests that a Mineral Assessment be submitted in order to determine whether minerals on site could be sterilised. Unless a justification for the development can be established the consultee wishes to object on behalf of the Country Council.

### **Proposed perspective view from paddock**





## **6. APPRAISAL**

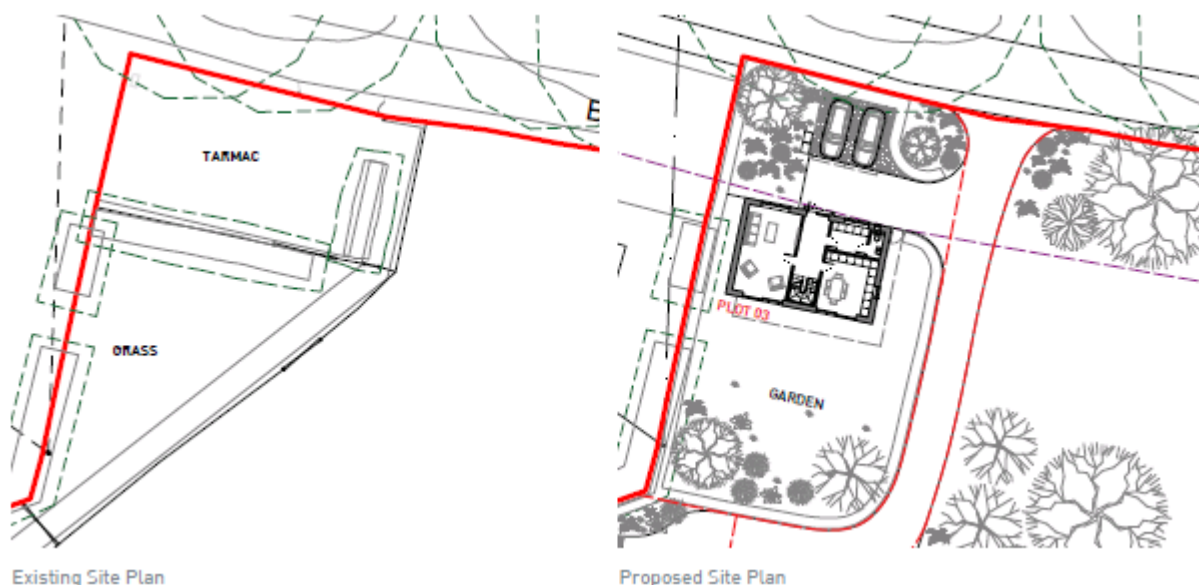
### **Main Issues**

- 6.01 The key issues for consideration relate to:
- Principle
  - Character, appearance and landscaping
  - Ecology
  - Neighbour amenity and standard of the accommodation
  - Highways, access and parking

### **Principle**

- 6.02 Policy SS1 of the adopted Local Plan includes a settlement hierarchy that seeks to direct new development to the most sustainable locations in the borough. Policy directs new development firstly to the Maidstone Urban Area, followed by the five rural service centres and the lastly to the larger villages, such as Boughton Monchelsea.
- 6.03 Whilst the application site is not within any of these locations, the equestrian use and the site does benefit from the proximity to the designated 'larger village' of Boughton Monchelsea village (1 kilometre) and to Chart Sutton (0.6 kilometres). It is highlighted that the pedestrian route to Chart Sutton or Boughton Monchelsea is along mainly narrow roads, without pavements or streetlights, but also with the distances involved private car journeys would be relatively short.
- 6.04 The principal objective of policy DM5 of the adopted Local Plan is to minimise the development of greenfield land by encouraging the re-use of land that has been previously developed. Policy DM5 supports the re-use of sites in current or previous economic use in countryside locations subject to acceptable scale and impact.

**Existing and proposed layout on the Back Lane frontage**



- 6.05 In assessing the development against policy DM5, the site is not of high environmental value. With the development retaining the open land on the eastern half of the site, the density of the proposal reflects the character and appearance of the area. With the removal of the large existing barn and other ancillary buildings the proposal will also result in a significant environmental improvement and the site. The site is accessible to the facilities in the larger village of Boughton Monchelsea after a 1km car journey.
- 6.06 The proposal involves the provision of three houses on previously-developed land which would clearly help to deliver the housing objectives of the Local Plan and one of the aims of the NPPF which is to significantly boost the supply of housing. In addition, the construction phase would provide work for local firms and businesses. With reference to the dimensions of sustainable development in the NPPF, significant weight is attached to these social and economic benefits that the proposal would bring.
- 6.07 In addition to the social and economic benefits the proposal will also provide environmental benefits. The proposal involves the replacement of a large bulky barn with dwellings of a much reduced scale of two storeys with a pitched roof, improvement in the street scene with a reduction in the large area of existing hardstanding at the front of the site and new landscaping.
- 6.08 The benefits set out above coupled with the significant weight given to the sites' brownfield designation as mandated by policy DM5 of the Local Plan, clearly outweighs any the harm resulting from the site location.
- 6.09 Taking all the above together, the site represents a suitable location for the proposed residential development. The proposal would have clear social benefit in providing new housing, and an economic benefit in its construction and in supporting facilities in Boughton Monchelsea village, with the environmental benefit involving enhancing the site thorough the removal of the barn, landscape planting, removal of hardstanding and the provision of a pond. The proposal complies with requirements of policy DM5 of the adopted Local Plan.

**Character, appearance and landscaping**



- 6.10 Policy DM30 of the adopted local plan seeks to achieve high quality design in all development in the countryside. It emphasises the need for the design, siting, materials including mass and scale to maintain and possibly enhance local distinctiveness including landscape features. The policy also requires that the impact of development on the appearance and character of the landscape is appropriately mitigated.
- 6.11 The application site is within the Boughton Monchelsea to Chart Sutton Plateau landscape character area. It is assessed that "there are numerous visual detractors, comprising much recent development, equestrian grazing and associated facilities and polytunnels. Whilst its condition is assessed as very poor, the assessment also concludes that its sensitivity is very low.

**Proposed isometric overview with Back Lane at the bottom of the image**



- 6.12 With the existing large area of hardstanding on the road frontage and the large barn the application site is highly visible when travelling in both directions along Back Lane. The current proposal will improve the appearance of the site with the removal of the barn, the redevelopment of the site with three dwellings of a reduced scale and bulk and significant new landscaping.
- 6.13 To reduce the number of buildings on site, Plot 2&3 do not have garages, instead grass crete will be provided for parking. The drive ways are permeable paving to reduce hard standing.
- 6.14 Whilst the site is adjacent to a number of other existing residential properties, the scale, siting and the spacing of the proposed buildings will reduce the visual impact of the existing riding school and will provide a transition to the open area to the east of the site and the open countryside beyond.
- 6.15 The design of the submitted proposal consists of a farmstead type development, with the buildings on the footprint of the existing buildings located around a courtyard. The

new buildings will use vertical timber cladding with metal roofs and wall cladding. The zinc will be pre-patinated and the timber will fade with the materials intended to weather and improve with age and provide a reference to agricultural buildings.

- 6.16 The proposal involves extensive new landscaping both of the open paddock to the east of the site, the site frontage, the access road and the individual gardens. The applicant has confirmed that *"The use for the field will not be classed as garden space for the larger 'barn' house, but will be associated with the house so that it could be used for equestrian purposes. The paddock will be bounded by native hedgerows to encourage biodiversity. Groups of trees will be planted in the field to give a parkland feel"*.
- 6.17 It was the scale, density and layout of the proposed buildings when taken with the carports, which resulted in the previous refusal. This was considered to represent an intensive form of urban development that would have substantially diminished the rural character and appearance of the site and the local area.
- 6.18 It is considered that the revised layout and reduction in built form has addressed the previous design grounds for refusal.

### **Ecology**

- 6.19 The NPPF seeks to protect and enhance biodiversity, with paragraph 174 b) stating that plans should *"promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity"*.
- 6.20 Local Plan policy DM3 states: *"To enable Maidstone borough to retain a high quality of living and to be able to respond to the effects of climate change, developers will ensure that new development protects and enhances the natural environment ...where appropriate development proposals will be expected to appraise the value of the borough's natural environment through the provision of...an ecological evaluation of development sites...to take full account of the biodiversity present, including the potential for the retention and provision of native plant species"*.
- 6.21 A preliminary ecological appraisal and a bat survey report has been submitted with the current planning application. The appraisal found that bat activity recorded at the site was very low overall and attributed to only two species of bats. However it does conclude that the site is of importance for bats. The report concludes that prior to demolition buildings should be inspected for the presence of bats, that bat boxes be placed around the site and that outdoor lighting should be kept to a minimum. Planning conditions are recommended to seek these ecological enhancements including wildlife friendly planting as part of a landscape scheme.

### **Neighbour amenity and standard of the accommodation**

- 6.22 Local Plan policy DM 1 states that proposals which would create high quality design and will be permitted where they respect the amenities of occupiers of neighbouring properties and uses by ensuring that development does not result in, excessive noise, vibration, odour, air pollution, activity or vehicular movements, 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.
- 6.23 The proposed development would provide a good standard of residential accommodation overall with adequate daylight, sunlight and privacy provision and the

residential amenity within the proposed layout is acceptable and accords with current standards.

- 6.24 The layout of the proposed dwellings and their relationship with the existing dwellings would be acceptable, due to the distance between the two dwellings it is not considered that the relocation of the dwelling upon plot 3 would have a detrimental impact upon Marontone. The proposal will replace the existing unrestricted commercial equestrian use at the site that is generally considered to be incompatible with adjoining residential uses. The existing use is a source of noise and disturbance from the activity on the site such as vehicles arriving or leaving the site as well as manure piles that are referenced in representations received. The removal of the existing equestrian commercial use therefore represents a general improvement in residential amenity for adjoining houses. In addition to the removal of the existing commercial use, the proposal involves the removal of buildings to the rear of adjacent residential properties which again would result in a positive impact.

**Highways, access and parking**

- 6.25 Local Plan policy DM 1 states that proposals which create high quality design will be permitted, where they safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access.
- 6.26 Local Plan policy DM 23 states that the car parking for residential development will take into account the type, size and mix of dwellings and the need for visitor parking. Parking shall secure an efficient and attractive layout of development whilst ensuring the appropriate provision of integrated vehicle parking. Car parking standards are set out at Local Plan Appendix B. Local Plan DM23 states that new developments should ensure that proposals incorporate electric vehicle charging infrastructure.
- 6.27 Policy DM30 states that proposals must not result in unacceptable traffic levels on nearby roads; a proposal must not result in unsympathetic changes to the character of a rural lane which is of landscape or the erosion of roadside verges. Paragraph 109 of the NPPF (2019) state 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.
- 6.28 The current proposal involves the loss of a riding school which would have generated a significant quantity of vehicle movements, and this can be seen by the large car park that is provided on the road frontage.
- 6.29 The current application will retain the existing access arrangements to the rear of the site and these arrangements are considered acceptable. The proposal provides adequate off street car parking with two spaces for the two four bedroom dwellings and three spaces for the five bedroom dwelling. A planning condition is recommended that would require the applicant to install at least one electric charge point per dwelling.
- 6.30 The development is acceptable in relation to the potential impact on the highway network, highway safety, access and parking. The Local Highways Authority have raised no objection to the proposal.

**KCC Minerals**

- 6.31 Policy DM7 (Safeguarding Mineral Resources) of the Kent Minerals and Waste Local Plan 2013-30 details the criteria where planning permission will be granted for non-mineral development that is incompatible with minerals safeguarding.

- 6.32 An objection has been received from KCC Minerals, requesting that a Minerals Assessment be submitted in order to determine whether materials under the site could be sterilised. In light of the fact that there are a number of existing structures on the application site it is not considered reasonable to request the applicant provide this additional information.
- 6.33 In terms of how this relates to Policy DM7 of the above document this development would fall under paragraphs 1 and 2 of DM7 that the minerals are not of economic value (they may have already been sterilised as a result of the existing use on site) and that extraction of the mineral would not be viable or practicable (there are existing buildings on site).

#### **Other Matters**

- 6.34 The submitted development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 6.35 That the development would be erected upon contaminated Land is an issue that has been raised as a result of the neighbour consultation. Land contamination has not been raised as an issue by environmental health consultees. Precommencement conditions have been requested however to address the disposal of manure on site as well as conditions to address dust, odour and vapour emissions and foul drainage.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.36 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.

#### **Conclusion**

- 6.37 The proposal is acceptable in relation to the potential impact on the application site, the development would have no impact visually, or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.

### **7. RECOMMENDATION**

Grant Permission subject to the following planning conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this 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/documents:

Application for planning permission

Planning Committee

24 September 2020

Bat Survey Plan

Habitat Plan

Tree Constraints Plan

250(P)001 Rev 1 Site Location Plan

250(P)002 Rev 2 Block Plan

250(P)003 Rev 2 Existing Site Plan

250(P)004 Rev 2 Existing Landscape Plan

250(P)006 Rev 6 Proposed Landscape Plan

250(P)007 Rev 0 Proposed Site Plan - Plot 1

250(P)008 Rev 0 Proposed Site Plan - Plot 2

250(P)009 Rev 1 Proposed Site Plan - Plot 3

250(P)010 Rev 3 Existing Barn Ground Floor Plan

250(P)015 Rev 3 Existing Barn East and West Elevations

250(P)016 Rev 3 Existing North and South Elevations

250(P)030 Rev 4 Proposed North and South Longitudinal Elevations

250(P)031 Rev 3 Proposed East Longitudinal Elevation and Section

250(P)032 Rev 3 Proposed West Longitudinal Elevations

250(P)033 Rev 0 Proposed South Elevation

250(P)040 Rev 0 Proposed Ground Floor Plan - House Type A

250(P)041 Rev 0 Proposed First Floor Plan - House Type A

250(P)042 Rev 0 Proposed Roof Plan - House Type A

250(P)043 Rev 0 Proposed Front and Rear Elevations – House Type A

250(P)044 Rev 0 Proposed Side Elevations 1 and 2 – House Type A

250(P)045 Rev 0 Proposed Ground and First Floor Plans – House Type B

250(P)046 Rev 0 Proposed Roof Plan - House Type B

250(P)047 Rev 0 Proposed Front and Rear Elevations – House Type B

250(P)048 Rev 0 Proposed Side Elevations 1 and 2 – House Type B

Bat Survey Report

Ecological Appraisal

Transport Statement

Tree Survey

Design and Access Statement

Reason: To ensure a satisfactory appearance to the development and in the interests of residential amenity.

- 3) The development hereby approved shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 4) Prior to the development hereby approved reaching slab level a scheme for (a) the storage and screening of refuse bins, and (b) the collection of refuse bins shall be submitted to and approved by the Local Planning Authority. The approved details shall be in place before first occupation of the development hereby approved, and maintained thereafter.

- 5) Reason: In the interests of amenity and the streetscene.

- 6) The development hereby approved shall not commence above slab level until full details of all measures to be taken to deal with the emission of dust, odours or vapours arising from the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first use of the premises. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first use of the premises and shall be operated and retained in compliance with the approved scheme.

Reason: In the interests of safeguarding neighbouring amenity.

- 7) The development hereby permitted shall not commence above slab level until details on the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal must be submitted to and approved by the LPA prior to occupation of the site.

These details should 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).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Reason: To ensure adequate sewage disposal arrangements and in the interests of the amenities of the area.

- 8) Prior to the commencement of the development, details of where and how manure is to be stored and ultimately disposed of shall be submitted to and approved in writing by the Local Planning Authority. Once the use commences, this shall be carried out in accordance with the approved details. No manure or waste materials shall be burned upon the land within the application site.

Reason: In the interests of the amenities of the area.

- 9) No development shall commence above slab level until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of hard and soft landscaping for the site, including details of all hard surfacing and planting within the site and boundary treatments, using indigenous species and a programme for the approved scheme's implementation and long term management. The scheme shall include indications of all existing trees and hedgerows on the land and adjacent to the site boundaries and details of any to be retained, together with measures for their protection during the course of development. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The development shall be carried out in accordance with the approved scheme of hard and soft landscaping and boundary treatments;

Reason: In the interests of visual amenity and to ensure a satisfactory setting and external appearance to the development is provided and maintained.

- 10) All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first

occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: In the interests of visual amenity and to ensure a satisfactory setting and external appearance to the development is provided and maintained.

- 11) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- 12) Prior to the first occupation of the new dwellings hereby permitted, an accessible electric vehicle rapid charging point shall be installed within the site for each new dwelling in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The electric vehicle rapid charging points shall be retained and maintained within the site thereafter;

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 110 of the NPPF (2019).

- 13) From the commencement of works (including site clearance), precautionary mitigation measures for bats will be implemented, including pre-demolition internal inspections of the buildings and dismantlement of potential roost features under supervision of a licenced ecologist. If bats or evidence of roosting bats is found, all works must cease and Natural England contacted.

Reason: To protect and enhance the ecology and biodiversity on the site in the future

- 14) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority with the details including gaps at ground level to allow the passage of wildlife and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development, to safeguard the enjoyment of their properties by existing and prospective occupiers and in the interests of wildlife.

- 15) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks. The

development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 16) No external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development, to safeguard the enjoyment of their properties by existing and prospective occupiers and in the interests of wildlife.

- 17) Upon completion, no further development, whether permitted by Classes A, B, C, E or F of Part 1 and/or Class A of Part 2 of Schedule 2 to 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) or not, shall be carried out to or within the curtilage of the new dwellings hereby permitted without the prior written consent of the Local Planning Authority;

Reason: In the interests of the visual amenities, character and appearance of the area and the amenities of the occupiers of neighbouring properties.

- 18) Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

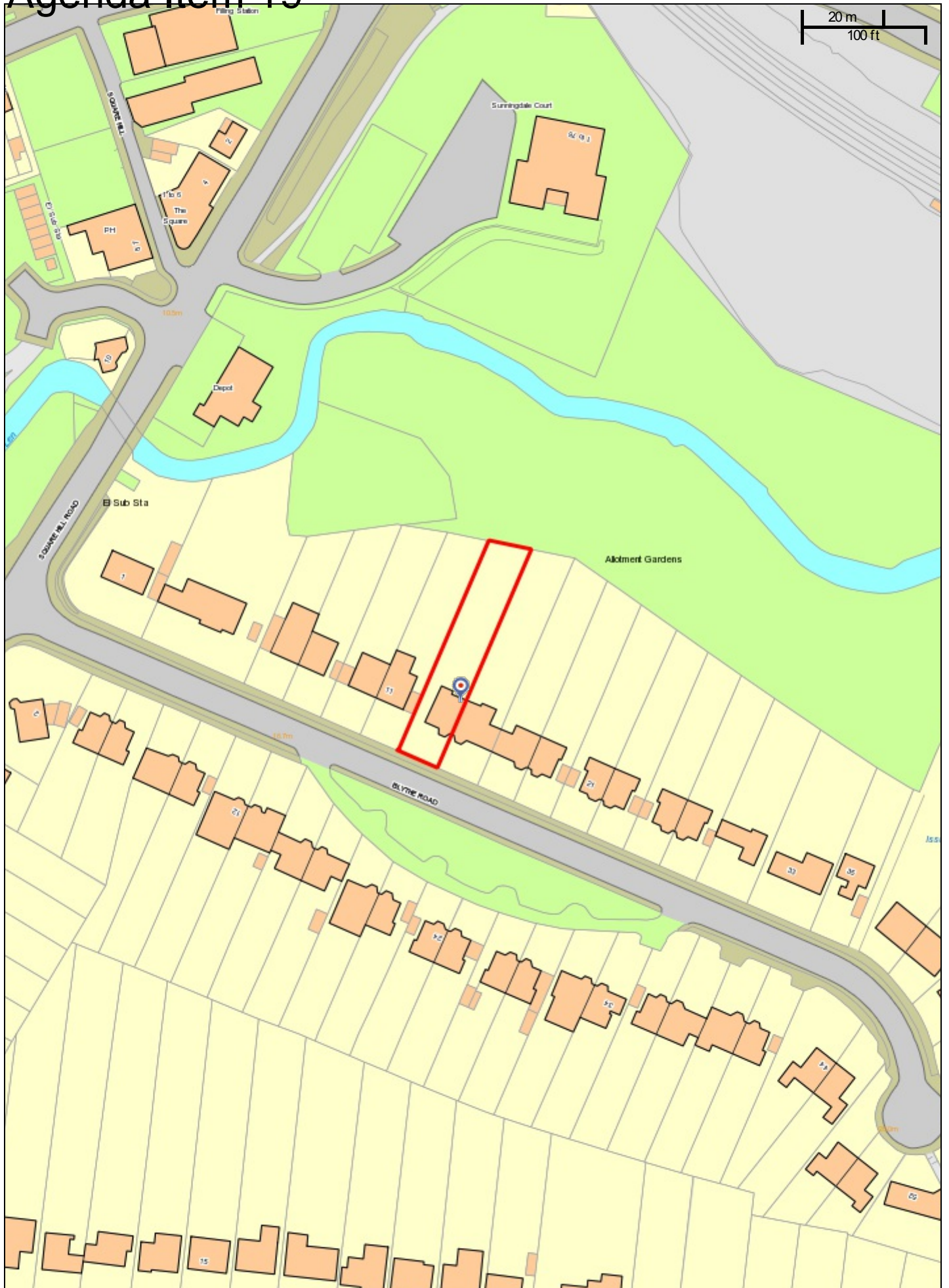
ii) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Case officer: William Fletcher



# Agenda Item 19



20/503105/FULL - 13 Blythe Road, Maidstone, Kent, ME15 7TR

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<b>REFERENCE NO -</b> 20/503105/FULL		
<b>APPLICATION PROPOSAL</b> Erection of a single storey side and rear extension, including loft conversion.		
<b>ADDRESS</b> 13 Blythe Road, Maidstone, Kent ME15 7TR		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The proposed extensions and alterations to 13 Blythe Road would accord with the relevant policies and guidelines on residential extensions. On balance there would not be significant harm to visual or residential amenity, nor other material planning considerations such that this is an acceptable development and approval is therefore recommended subject to conditions.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  Ward Councillor has requested that the application be considered by the Planning Committee if Officers are minded to recommend approval due to the impact on neighbouring amenity, scale and massing and privacy matters.		
<b>WARD</b> High Street	<b>PARISH/TOWN COUNCIL</b> N/A	<b>APPLICANT</b> Mr & Mrs S Merrett <b>AGENT</b> Ms Karen Thatcher
<b>TARGET DECISION DATE</b> 30.09.2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 08.09.2020 (re-consultation date)

### **Relevant Planning History**

20/500282/FULL - Erection of a single storey timber granny annexe for ancillary use to the main dwelling : Permitted (Permission remains extant but has not been implemented)

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The application site comprises a semi detached 2-storey house located on Blythe Road. The property benefits from a private drive way which could potentially park three vehicles and a large rear garden of approximately 40 metres in length which slopes down to the north of the garden. The dwelling is within Maidstone's urban area boundary as shown in the councils adopted local plan policies map. The majority of properties surrounding the application site are of a similar scale with many benefiting from front, side and rear extensions. The site is not subject to any other land designations.

#### **2. PROPOSAL**

- 2.01 The application seeks permission to extend the existing dwelling incorporating, the erection of a single storey side and rear extension and dormer window in the western roof slope.
- 2.02 In terms of design the single storey side extension would extend the width of the property by approximately 2.25 metres and would have a depth of 9.6 metres. The side extension would then extend beyond the rear of the property by a depth of 5.3

metres. The rear extension would be part pitched with the same eaves and overall height as the single storey side and part flat roof. The flat roof element of the rear extension would have an eaves height of 2.7 metres and an overall height of 2.8 metres.

- 2.03 The proposed dormer extensions would be in the western and northern roof slopes of the existing house. The height of the western dormer would be 3.2 metres, it would have a width of 2.9 metres and a depth of 3.4 metres with a pitched roof and will be set down from the apex of the existing roof and the principal elevation. The rear dormer extension would have a height of 3 metres, a width of 2 metres and a depth of 3.1 metres with a pitched roof.
- 2.04 The materials proposed are to match the existing materials of the property.
- 2.05 The block plans shows space to park vehicles on the front private forecourt to be retained with a garden and the retention of approximately 33 metres of garden/amenity area to the rear of the property.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM9 - Residential extensions, conversions and redevelopment within the built up area.

SPG 4 - KCC Parking Standards (2006)

Maidstone Local Development Framework, Residential Extensions Supplementary Planning Document (2009)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 Three representations from neighbouring properties have been received raising the following objections (summarised):
- Trees within falling distance
  - Parking and traffic issues throughout the construction
  - Excessive scale
  - Loss of light/overshadowing
  - Loss of privacy
  - Detrimental to environment and loss of views
  - Reduction in value of adjoining properties
  - Risk of structural damage to adjacent property
  - Noise and disturbance during construction
  - Poor design
  - Intrusive
  - Potential party wall issues
  - Out of character with Blythe Road
- 4.02 It is important to note that issues such as parking and traffic, disturbance such as noise and mess throughout the construction, reduction in the value of adjacent properties, structural damage to adjacent properties and party wall issues are not planning considerations and therefore cannot be taken into account in the

determination of this application. We also do not have the ability to withhold any building works/consent due to potential disturbance as a result of the works being carried out. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below.

There were no representations in support of the application.

**5. CONSULTATIONS :** None

**6. APPRAISAL**

6.01 The key issues for consideration relate to:

- Design and visual impact of the proposed development
- The potential impact upon the amenities of neighbouring householders.

**Policy Context**

6.02 The Maidstone Borough Local Plan was adopted in October 2017. Policy DM1 sets out the principles of good design. In particular, proposals should respond positively to local character and particular regard should be paid to scale, height, materials, detailing mass and bulk.

6.03 More specifically, Policy DM9 sets out the criteria for domestic extensions. Within the defined boundaries of the urban area, rural service centres and larger villages, proposals for the extension, conversion or redevelopment of a residential property which meet the following criteria will be permitted if:

- i. The scale, height, form, appearance and siting of the proposal would fit unobtrusively with the existing building where retained and the character of the street scene and/or its context;
- ii. The traditional boundary treatment of an area would be retained and, where feasible, reinforced;
- iii. The privacy, daylight, sunlight and maintenance of a pleasant outlook of adjoining residents would be safeguarded; and
- iv. Sufficient parking would be provided within the curtilage of the dwelling without diminishing the character of the street scene.

6.04 The Supplementary Planning Document Residential Extensions (2009) (SPD) states that extensions should respond sensitively to the positive features of the area which contribute to the local distinctive character and sense of place in terms of scale, proportion and height. It is also desirable that the form, proportions, symmetry and detail of the original building should be respected. The scale, proportion and height of an extension should not dominate the original building, should be subservient to the original house and should fit unobtrusively with the building and its setting. The form of an extension should be well proportioned and present a satisfactory composition with the house. Extensions should respect the amenities of adjoining properties in respect of daylight and sunlight and maintain an acceptable outlook from a neighbouring property.

**Design and visual impact**

6.05 Policy DM9 of the Maidstone Borough Local Plan (2017) is supportive of extensions to dwellings within urban areas provided that the scale, height, form and appearance and siting of the proposal would fit unobtrusively within the existing building and the character of the street scene/or its context. In advising on side

extensions, the Residential Extensions SPD (2009) notes that the acceptable depth and height of a rear extension will be determined by the ground levels distance from the boundaries and size of the neighbouring garden/amenity space.

- 6.06 The proposed side extension is not an uncommon extension within the urban area of Maidstone and it is evident that many properties of this style and age have similar additions. It is not considered that the proposed single storey side extension would be of an excessive scale or unsympathetic design that it would be detrimental to the visual amenity of the property as seen from the highway.
- 6.07 The rear extension seeks to have a depth of 5.3 metres. In terms of design, although the Residential Extension SPD advocates that a rear extension should generally extend no more than 4 metres, however given the size of the plot and the scale of the existing property it is not considered the proposed depth to be an excessive increase and each case is assessed on its merits and there are circumstances where greater depths are acceptable. The rear garden area to be retained would be approximately 33 metres.
- 6.08 The dormer extensions would be significantly set down from the apex of the main dwelling and the western dormer will be set back approximately 4.6 metres from the principal elevation of the dwelling. It is not considered that the property is of such high visual amenity value that the minor change in character would result in significant harm. The application site is not restricted in terms of being located in a conservation area or AONB and is not listed. The hipped roof form of the existing dwelling would still be retained due to the position and scale of the dormer in the side roof slope.
- 6.09 Blythe Road is predominately made up of two storey semi-detached dwellings built in a similar period. However, due to the number of extensions and alterations to the properties it could be considered a mixed street scene with variety in the design and it is considered that, in its context, the proposed development would not appear significantly out of place or out of character with its surroundings. Cumulatively the proposed extensions would significantly increase the amount of space within the property however; the majority of the development would not be visible from the highway.
- 6.10 There is evidence of various side, rear and front extensions to properties in the vicinity and I would not consider the proposal to cause any significant harm to the appearance of this dwelling, the properties adjacent or the character of the vicinity of the site generally. The proposal is therefore in keeping with the existing character and appearance of the street scene.
- 6.11 The materials proposed are to match the existing property which will be in keeping and would appear sympathetic within the mixed street scene where a variety of different materials is present. It is not uncommon for properties within the urban area of Maidstone to have similar materials to the ones proposed and therefore the property would not detract from the characteristics within the vicinity or the wider area.
- 6.12 The proposal has been designed to maximise independence of the applicant's elderly parents, whilst also providing an enjoyable and safe open plan living for the family. The size of the accommodation being proposed is not excessive, and is proportionate to the identified need, taking into account practical considerations.

#### **Impact on neighbouring amenities**

- 6.13 Policy DM9 specifically states that domestic extensions will be supported provided that the privacy, daylight, sunlight and maintenance of a pleasant outlook of the adjoining residents would be safeguarded. This requirement is also observed in the Residential Extensions SPD (2009) where it is noted that the design of domestic alterations should not result in windows that directly overlook the windows or

private amenity spaces of any adjoining properties and should also respect daylight, sunlight and outlook.

6.14 15 Blythe Road

6.15 This adjoining property is located to the east of the application. The residential extension SPD advises that where necessary a 45 degree angle light test should be carried out to confirm whether a particular development would result in a loss of daylight to a habitable room. The test failed on the floor plans but passes on the elevational test in regards to the patio doors at ground floor. It is also noted that due to the path of the sun the existing dwelling already partially overshadows this property for part of the day and that this development would not result in such significant harm that it would be detrimental to occupiers of this neighbouring property. The low height of the extension and the flat roof will ensure that the sun will also reach the patio doors over the development.

6.16 The rear extension would be sited along the boundary of this neighbouring property, although it is agreed that the depth of the extension will be fairly large its low height and flat roof will ensure the proposal would not appear overbearing or overshadowing. Concerns have been raised in regards to the loss of outlook and that views of the semi-rural landscape will be compromised as a result of this development. The gardens of 13 Blythe Road are of a fairly large depth of 33m +, it is not considered that the proposed extension would restrict views of the surrounding landscape given the size of the gardens and the existing boundary treatments that consists of trees and vegetation would be retained.

6.17 The proposed raised patio area would be the same height as the existing raised area and it is not proposed to extend any further. When visiting the site, the majority of the existing patio area had garden paraphernalia and it was clear that the whole patio area was in use. Therefore, given that the raised patio area would not extend further than existing and will not be any higher than existing it is not considered that this element of the proposal will not result in any additional significant harm in terms of privacy and overlooking.

6.18 11 Blythe Road

6.19 In terms of the 45 degree angle light test that should be carried out to confirm whether a particular development would result in a loss of daylight to a habitable room. The test passed on the floor plans and the elevations test in regards to the patio doors at ground floor.

6.20 The distance between the proposed development and the boundary of this neighbouring property is 0.9 metres and due to the low eaves height and the proposed roof of the side extension which slopes away from this property it is not considered the proposal would result in a significant impact in terms of loss of light and overshadowing. The proposed dormer extension to the rear represents a minor element to the development that is not of a scale that would result in a loss of light/overshadowing.

6.21 In terms of outlook, as viewed specifically from the dining room of this neighbouring property. The patio doors are to the side of the rear extension and have clear views of the garden and patio area of the host dwelling. It is evident from other properties in Blythe Road that single storey side and rear extensions are not uncommon and the occupiers of this property have chosen to have views onto land that is not in their ownership.

6.22 Furthermore there is no right to a 'view' and the material considerations would be whether a particular proposal is overbearing or detrimental to the outlook which in this case, due to the distance, scale and design of the proposal it would be unlikely. It is also noted that the rear extension of this neighbouring property also has a large window in the rear elevation that looks out onto their own rear garden.

- 6.23 Concerns have also been raised in regards to privacy and overlooking from the windows proposed ground floor side windows and the raised patio area. There are three proposed ground floor windows in the flank elevation facing this neighbouring property. This neighbouring property does not have any windows in the flank elevation apart from the dining room doors in the rear extension. This neighbouring property also benefits from a single storey side extension which runs along the boundary.
- 6.24 Due to the positioning of the proposed windows they would look out onto the flank elevation of the neighbouring property and would not result in overlooking or loss of privacy.
- 6.25 In terms of the raised patio area as shown on the block plan and an additional section plan, it will be the same height as the existing raised area, it is also proposed to not extend any further than existing.
- 6.26 When visiting the site, the majority of the existing raised area had garden paraphernalia and it was clear that the whole patio area was in use. Therefore, given that the raised patio area will not extend further than existing and will not be any higher than existing it is not considered that this element of the proposal will not result in any additional significant harm in terms of privacy and overlooking.
- 6.27 The proposal would not detrimentally impact other neighbouring properties in terms of loss of light, outlook, overlooking or loss of privacy due to the siting and orientation of application site.

#### **Other Matters**

- 6.28 KCC Highways state within their residential parking standards that a property with 4+ bedrooms should be allocated at least 2 independently accessible spaces within a suburban area. I would consider the amount of space retained on the private forecourt to accommodate 2+ cars and would therefore be in accordance with policy DM9 and KCC Highways recommendation for properties of this size.
- 6.29 There are no significant trees in close proximity to the site that will be detrimentally impacted by this development. The oak tree raised in the objections is not on the land of the host dwelling and is approximately 8 metres away from the development. The tree in question is not subject to a tree preservation order and as stated in the above assessment the site is not within a conservation area or AONB.
- 6.30 Policy DM1 of the local plan sets out at point viii that proposals should 'protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide mitigation.'
- 6.31 Due to the nature of the proposal and the residential use of the site and the continued residential use, it is not considered appropriate/necessary to require any ecological surveys, however due to the proposed extension extending rearwards and the loss of rear garden it is considered appropriate to request ecological enhancement by way of condition.

### **7. CONCLUSION**

- 7.01 The above assessments indicate that the extensions and alterations to 13 Blythe Road accord with the relevant policies and guidelines on residential extensions. On balance, this is an acceptable development and approval is therefore recommended subject to conditions.

### **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 this 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/drawings:

Householder Application  
S001 Site and location plans  
E001 Existing floor plans  
E002 Existing elevations  
P001 A Proposed floor plans (received 24.08.2020)  
P002 A Proposed elevations (received 10.09.2020)  
S001 A Site and block plan (received 24.08.2020)

Reason: To ensure the quality of the development is maintained and to prevent harm to the character, appearance and visual amenity of the area.

- 3) The external facing materials to be used in the construction of the extension hereby permitted shall match those used on the existing building;

Reason: To ensure a satisfactory appearance to the development.

- 4) The extensions hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through either integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks, or through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles and hedgerow corridors. The development shall be implemented in accordance with the approved details prior to the first use of whichever extension is completed first and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

### **INFORMATIVES**

The grant of this permission does not convey any rights of encroachment over the boundary with the adjacent property in terms of foundations, eaves, guttering or external cladding, and any persons wishing to implement this permission should satisfy themselves fully in this respect. Regard should also be had to the provisions of the Neighbour Encroachment and Party Wall Act 1995 which may apply to the project.

Case Officer: Sophie Bowden



# Agenda Item 20



<b>REFERENCE NO - 20/502277/FULL</b>		
<b>APPLICATION PROPOSAL</b> Siting of 1no. mobile home, creation of 2no. parking spaces and relocation of fence.		
<b>ADDRESS</b> Greenacre, Church Hill, Boughton Monchelsea, Maidstone, Kent, ME17 4BU		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>• With its enclosed nature, the development will not have a detrimental visual impact upon Church Hill or the wider area</li> <li>• The additional mobile home is within the boundary of an existing gypsy and traveller site.</li> <li>• The proposal is acceptable in relation to highways impact and residential amenity.</li> <li>• The site was assessed as part of the adoption of the Local Plan as being suitable for two gypsy and traveller pitches and the current proposal is a less intensive use as an additional caravan linked to the existing single pitch on the site.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton Monchelsea Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined in the consultation section below.		
<b>WARD</b> Boughton Monchelsea and Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Mr H Edwards  <b>AGENT</b> Martin Potts Associates
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 08/07/2020

### **Relevant Planning History**

10/1545 - Retrospective planning application for Change of use of land for stationing of caravans for residential occupation with associated works – Appeal Allowed

02/0255 - Change of use of the land to open air caravan parking for 50 no. caravans, as shown on unnumbered site plan and supporting statement received on 05.02.02. – Permitted

### **MAIN REPORT**

#### **1 DESCRIPTION OF SITE**

## Planning Committee

24 September 2020

1.01 The application site lies on the western side of Church Hill, Boughton Monchelsea, south of Heath Road. The site is approximately 0.4km to the south of the village centre. The site is not within any specific landscape designation.

1.02 The site is an allocated Gypsy and Traveller site in the adopted Local Plan (Policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton Monchelsea) where it is specified that the site should have a total of 2 Gypsy and Traveller pitches (one additional pitch).

## 2. PROPOSAL

2.01 The application seeks to add one additional caravan to the existing gypsy and traveller pitch on the application site.

2.02 This caravan would be located at the western end of the plot and would involve the relocation of an existing fence within the plot to facilitate the placement of the additional caravan.

2.03 To clarify there would be a total of 2 static caravans on site as a result of the development.

## 3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM15 – Gypsy, Traveller and Travelling Showpeople accommodation

DM30 – Design principles in the countryside

GT 1 - Gypsy and Traveller site allocations

GT1(2) – Greenacres (Plot 5), Church Lane, Boughton Monchelsea

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Gypsy & Traveller and Travelling Showpeople Topic Paper (2016)

Gypsy & Traveller & Travelling Showpeople Accommodation Assessment (2012)

Maidstone Landscape Character Assessment (amended 2013)

## 4. LOCAL REPRESENTATIONS

Local Residents:

4.01 No representations were received as a result of the neighbour consultation in objection to the development.

## 5. CONSULTATIONS

### Boughton Monchelsea Parish Council

5.01 Objection, wish to see the application refused for the following planning reasons. Should the recommendation be for approval then the application should be reported to MBC planning committee for decision:

5.02 The proposal represents unacceptable intensification of the site. We are particularly concerned that the unit has been positioned on the western boundary of the site which represents a significant intrusion into the open countryside. All existing mobile units on the various traveller sites have been placed close to the road (Church Hill).

5.03 No evidence has been provided as justification for why an additional mobile home is required on the site. Full details should be provided by the applicant.

5.04 As a general point, we are concerned at the intensification of various traveller sites on Church Hill which appears to have happened without the relevant consents. This unauthorised development should be taken into account when deciding this application.

## **6. APPRAISAL**

### **Main Issues**

6.01 The key issues for consideration relate to:

- Principle
- Design / impact on character of area
- Amenity concerns
- Highways issues
- Sustainability

**Aerial photograph showing the existing areas of hardstanding on the site with the proposed caravan located at the top (western) part of the site.**



- Principle
- 6.02 The application relates to a site allocated for gypsy and traveller accommodation in the adopted Local Plan.
- 6.03 Policy GT 1 states that the sites allocated under policies GT1(1) to GT1(16) will deliver approximately 41 pitches for Gypsy and Traveller accommodation to assist in meeting needs during the plan period. Development will be permitted provided the criteria for each site set out in the detailed site allocation policies are met.
- 6.04 Policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton Monchelsea relates to the application site. The allocation in the Local Plan sets out the following requirements which are considered against the current submission below:
1. The total capacity of the site does not exceed 2 Gypsy and Traveller pitches.

The current application meets this aim with a single pitch remaining on the site

2. Access to the site is via the existing access off Church Hill.  
The new caravan will use the existing established vehicle access from Church Hill
3. The additional pitch is sited on the existing hardstanding and not beyond the site boundaries defined on the policies map.  
With the reference to the comments from the parish council about extending into the countryside; the proposed caravan is in line with the site allocation as it would be located on the existing hardstanding at the rear (western) end of the site.
4. A landscaping scheme for the site is approved which provides for: i. The retention and future maintenance of the trees and hedge line along the site frontage to Church Hill; and ii. The establishment of a landscaped boundary to the south of the site comprising native species to provide an effective screen to the development.  
Planning conditions are recommended to seek the provision of this landscaping.

- 6.05 Whilst the application site is an allocated gypsy and traveller site and the current submission meets the criteria set out in this allocation, an assessment of the need and supply situation in relation to of gypsy and traveller pitches is set out below.

#### **Need for Gypsy sites**

- 6.06 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.

#### **Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

- 6.07 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period is shown in the table above .
- 6.08 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.
- 6.09 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

### **Supply of Gypsy sites**

- 6.10 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.11 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

#### **Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.12 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.13 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.14 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

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

- 6.17 In terms of the applicant their status as a Gypsy has been previously been explored and accepted at appeal. In relation to the current application, the applicant has submitted information indicating they travel for work and attend horse fairs as well as trade in horses. In this instance the proposed mobile home would be used to house two members of the applicants close family who have medical needs and accommodating these needs would be assisted by the current proposal. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.
- 6.18 The site is an established Gypsy and Traveller plot and a condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).

**Landscape and design**

- 6.19 In policy terms the application site is located within the countryside outside all settlement boundaries as defined within the Maidstone Borough Settlement Hierarchy. Policy SP17 of the Local Plan states that proposals which accord with other policies in the plan and which do not harm the countryside will be permitted. Policy DM15 states that planning permission for G&T development will be granted if it would not result in significant harm to the landscape and rural character of the area.
- 6.20 Policy DM30 requires, amongst other things, that the type, siting, materials and design, mass and scale of development and the level of activity maintain, or where possible, enhances local distinctiveness including landscape features. The policy requires that impacts on the appearance and character of the landscape are appropriately mitigated and that any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation reflecting the landscape character of the area.
- 6.21 The site is located outside the urban area of Maidstone at the end of a row of established traveller sites with Boughton Monchelsea Primary School to the north of the row. Private dwellings are located further north along Church Street and as such whilst in policy terms the site is located within the countryside, this is not an isolated location. It would be fair to describe the location as a semi-rural buffer between the more developed areas north of Hearth Road and the wider countryside to the south of the application site.
- 6.22 The site is enclosed by substantial vegetative screening along Church Hill; with views of the site limited from public areas. Whilst it is accepted that the development would result in this site more 'intensively' occupied, in terms of its landscape impact this is not development in an open, visible countryside location and the additional caravan is restricted to the existing curtilage. The application is not seeking to expand the site in terms of its scale. In light of the above the views of the additional caravan would be restricted

**Amenity**

- 6.23 Other than the existing caravan, the closest property is located upon the site known as Barnview 40metres to the north of the application site. In terms of the amenity impact when considering this distance and the boundary treatments the proposal is acceptable on residential amenity grounds..



- 6.24 When considering the distances involved and the proposed single storey structure it is not considered that the proposal would cause any loss of light or overbearing impact on neighbouring properties.

### **Highways**

- 6.25 As part of the adoption of the Local Plan, the application site was assessed and found suitable for the provision of two gypsy and traveller pitches.
- 6.26 The current application involves less intensive use of the site to the site allocation with the provision of additional caravans linked to the single existing pitch on the site for family members. The site allocation requires the use of the existing site entrance and this is suitable for any additional vehicle movements associated with the additional caravan

### **Sustainability**

- 6.27 The site is approximately 0.4km from Boughton Monchelsea whereby there is access to a comprehensive range of services, amenities and facilities. Whilst the majority of trips are likely to be by car, the site is considered reasonably sustainable in terms of its proximity to the 'larger village'. This is a view supported at appeal by Inspectors at other sites.
- 6.28 As mentioned at the beginning of this report, there are a number of other traveller sites within the immediate locality; however it is not considered that the addition of a further caravan would result in over dominance in the area.

### **Human Rights and Equality**

- 6.29 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions.
- 6.30 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.

### **Conclusion**

- 6.31 The proposal is acceptable in relation to the potential impact on Church Hill, the development would have no impact visually, or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations.
- 6.32 The site was assessed as part of the adoption of the Local Plan as being suitable for two gypsy and traveller pitches and the current proposal is a less intensive use providing an additional caravan linked to the existing single pitch on the site. The proposal is in accordance with the site allocation at Local Plan policy GT1 (2) Greenacres (Plot 5), Church Hill, Boughton.
- 6.33 A recommendation of approval of the application is therefore made on this basis.

## **7. 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 this 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 additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document).  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 3) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (P922/2 Proposed Block Plan) Reason: To safeguard the visual amenity, character and appearance of the countryside location.
- 4) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.  
Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.
- 7) 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 countryside location
- 8) Prior to the occupation of the additional mobile home hereby approved, details of a scheme of landscaping (using indigenous species) which shall include indications of all existing trees and hedgerows on the land, and details of any planting to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and shall include:

Planning Committee

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- i) Location, species, number and size of all new trees and shrubs to be retained and planted; and
- ii) Retention and enhancement of boundary planting.

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the countryside

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the additional caravan hereby approved, or following the commencement of works for either the garage, stables or day room hereby approved, whichever is the sooner. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, 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: To safeguard the character and appearance of the countryside

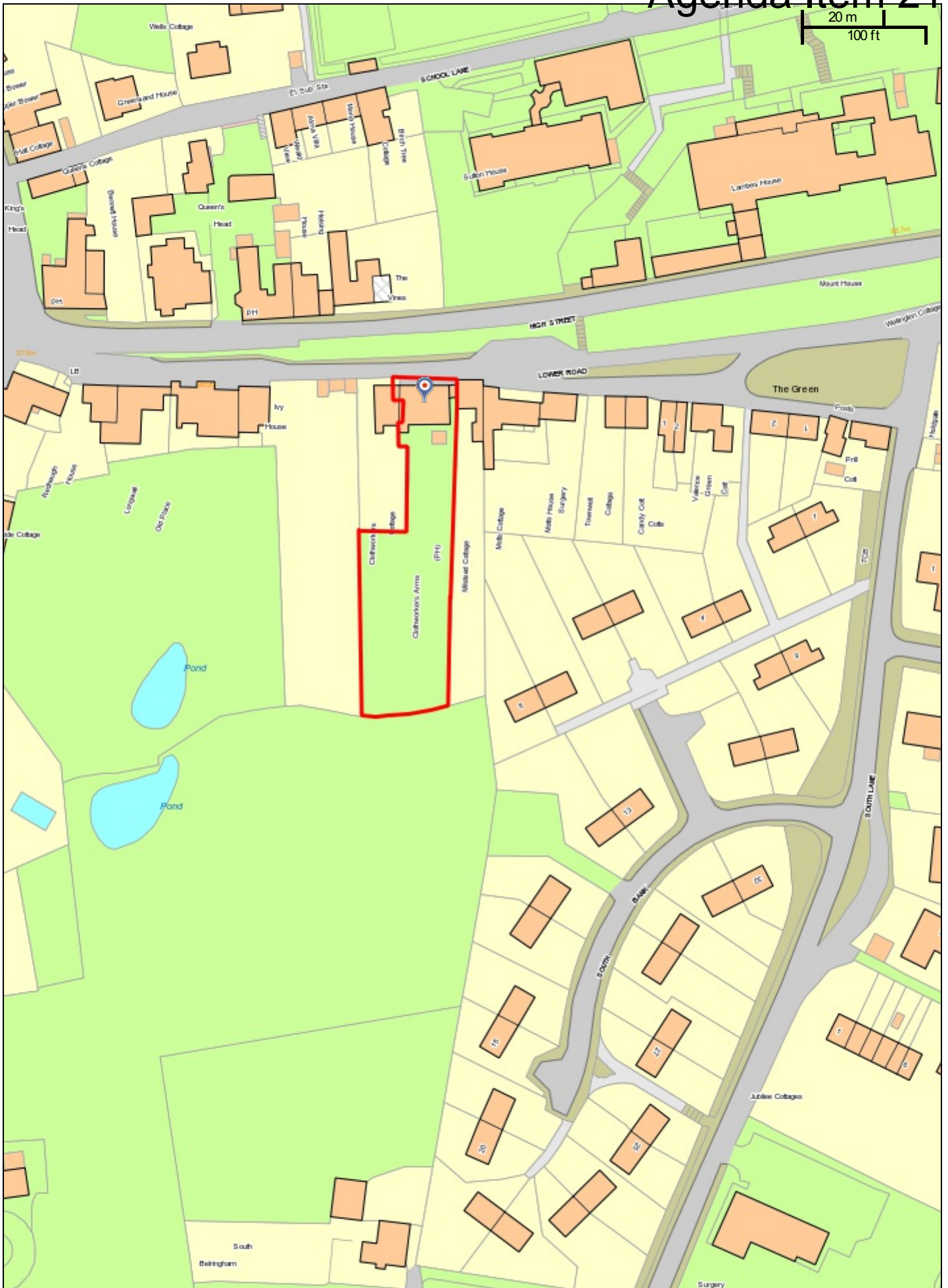
- 9) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

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

- 10) The development hereby permitted shall be carried out in accordance with the following approved plans and information: P922/2 - Proposed Block Plan and P922/2 Proposed Floor and Elevations Plan.

Reason: To clarify which plans have been approved.

Case officer: William Fletcher



20/501090/FULL - Clothworkers Arms, Lower Road, Sutton Valence, Maidstone, Kent

Scale: 1:1250

Printed on: 14/9/2020 at 12:40 PM by JoannaW

<b>REFERENCE NO - 20/501090/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use from Class A4 (drinking establishment) to Class C3 (residential) and erection of two storey rear extension.		
<b>ADDRESS</b> Clothworkers Arms Lower Road Sutton Valence Maidstone Kent ME17 3BL		
<b>RECOMMENDATION</b> APPROVE SUBJECT TO CONDITIONS		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> On balance, the development is considered to comply with Development Plan Policy and the aims of the National Planning Policy Framework. There are no overriding material considerations to indicate a contrary view.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of the Parish Council who have requested Committee consideration.		
<b>WARD</b> Sutton Valence And Langley	<b>PARISH/TOWN COUNCIL</b> Sutton Valence	<b>APPLICANT</b> Shepherd Neame Ltd  <b>AGENT</b> Milliken & Co. Chartered Surveyors
<b>TARGET DECISION DATE</b> 09/07/20		<b>PUBLICITY EXPIRY DATE</b> 03/09/20

### **Relevant Planning History**

The most relevant history is:

87/1515

Internally illuminated corporate lamp.

Approved Decision Date: 10.11.1987

03/0142

Removal of existing window and installation of new patio doors, external landing and stair structure to provide access from bar to garden, as shown on dwg nos 1340-01, 1340-02, 1340-SK.1 and 1340-SK.2 received on 23.01.03.

Approved Decision Date: 01.07.2003

02/1665

Removal of existing window (on rear first floor) and installation of new patio doors, external landing and stair structure to provide access from bar to garden, as shown on dwg nos 1340-01 and 1340-02 received on 04.09.02.

Refused Decision Date: 12.11.2002

### **Enforcement History:**

None relevant.

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 This application relates to a two-storey attached public house which is located within the settlement boundary of Sutton Valence. The garden area associated with the building lies outside of the settlement boundary, in the open

countryside. The whole site is located within Sutton Valence conservation area and also falls within the Greensand Ridge landscape of local value.

- 1.02 The public house has a mainly rendered front elevation, with attractive detailing, which is considered to make a positive contribution to the visual amenity of the conservation area. The first floor of the building contains associated residential accommodation to the public house use and to the rear is a sloping garden upon a steep slope. There is no existing off-road parking.
- 1.03 The village of Sutton Valence contains a number of facilities, including schools, Church, village Hall, doctors surgery and 2 other public houses.

## **2. PROPOSAL**

- 2.01 Planning Permission is sought for the change of use of the building from class A4 use as a public house to class C3 use as a dwelling, together with the erection of a two-storey rear extension.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 : SS1, SP11, SP15, SP17, SP18, DM1, DM4, DM17, DM20, DM23, DM30  
Kent Minerals and Waste Local Plan 2016: None specific.  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 2 representations received from local residents raising the following (summarised) issues
- Flying freehold and extractor fan may be blocked
  - Has consultation/site notice been carried out
  - Should be delayed until after lockdown
  - Loss of heritage asset
  - Not offered for sale
- 4.02 The issues relating to the extractor fan is not a material planning consideration and therefore cannot be taken into account in the determination of this application. The other matters raised by neighbours and other objectors are discussed in the detailed assessment below.

### **Sutton Valence Parish Council:**

- 4.03 "The Parish Council resolved that this application be refused and do wish to see this reported to the planning committee if the officer sees fit to approve. The Parish Council could see no evidence of it being advertised for sale as a going concern. This established has long catered for a large sector of the Community that live South of the Village. It has always been a wet pub and this is why it is well used. The Parish Council believes that the Clothworkers still has a future in the Parish and do not wish to see it closed. The patrons are unaware of this application and the Parish Council has only just managed this meeting before all

meetings being suspended. All pubs are now closed because of Covid-19 Parish Council believes it is unfair to make a decision which will affect a substantial number of parishioners at this time”.

## **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)

### Conservation Officer

- 5.01 No objections. Recommends a materials condition.

### KCC Archaeology

- 5.02 Recommends a watching brief condition.

### MBC Client Services

- 5.03 No response.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- Principle
- Visual impact upon conservation area and countryside
- Residential amenity

### **Principle**

- 6.02 The key determining issues in this case is principle of the change of use. Policy SP 11 and SP 15 of the local plan generally resist the loss of community facilities in larger villages and policy DM20 also generally resists their loss. The key policy, which specifically relates to this issue, is policy DM 17. This policy states, under criteria 4:

“In considering planning proposals which would involve or require the loss of existing post offices, pharmacies, banks, public houses or class A1 shop selling mainly convenience goods outside local and district centres, consideration will be given to the following:

i) Firm evidence that the existing uses are not now viable and are unlikely to become commercially viable;

ii) The availability of comparable alternative facilities in the village all the local area; and

iii) The distance to such facilities, the feasibility of alternative routes being used, and the availability of travel modes other than by private motor vehicle.

- 6.03 The preface to the policy also contains the following which is specifically relevant to this type of proposal:

- 6.04 “Local convenience shops and other such facilities can play an important role in sustainable development, by meeting the day-to-day needs of local communities. The NPPF seeks to guard against the unnecessary loss of valued facilities and

services, particularly where this would reduce the community's ability to meet such needs (paragraph 6.78).

- 6.05 "Whilst the Council recognises the importance of securing viable uses for premises, this must also be balanced against the needs of the community. Changes in the economy sometimes lead to public houses becoming vacant and an alternative use is being sought. However, for some communities, especially in rural areas, these facilities provide both important services and leisure opportunities (paragraph 6.79).
- 6.06 "Where the loss of a local convenience shop or facility is proposed, the council will expect such an application to be supported by a viability report, prepared by a qualified professional within the relevant industry, together with financial accounts and marketing information illustrating that the use is no longer viable. Accounts should, where possible, cover a three-year period. The council will also give consideration to the availability of comparable alternative facilities. In assessing this, the feasibility of such alternatives being used will be considered, including not only the distance from the potential users, but also the attractiveness and likelihood of the route being used. The impact of the loss of a local facility may be greater in village locations, where alternatives are less accessible. Well located local facilities can be positive assets, which are available to all, including those without cars and with mobility problems (paragraph 6.80)".
- 6.07 In this case, the applicant has submitted a viability study which contends that the public house use is no longer viable. Reasons given include:
- the fact that it is a "wet" pub which does not have the capacity to create a food trade, due to the limited space and lack of trade kitchen, plus the physical layout and small size make a significant food operation unviable,
  - changes in the market outside of town centres have resulted in successful public houses outside of the centre being of food led, plus changes in social habits such as the have had an adverse effect,
  - direct competition with 2 larger public houses with superior facilities such as parking and restaurants.
- 6.08 The applicant is the operator of a large number of public houses and is clearly experienced in the sector. They also contend that the high turnover of tenants is indicative of decline and confirm that they have carried out exit surveys which have indicated that the last 4 tenants left due to insufficient financial returns. The viability study also details the average annual beer barrelage and shows decline since 2009, with recently the lowest average since before 1990.
- 6.09 Therefore, in relation to the first issue within part 4 of policy DM17 and paragraphs 6.80, there is a viability report which has been prepared by a qualified professional within the industry. This report has been independently assessed by another qualified professional in the industry. The findings of this assessment included acknowledgement that a significant investment attempt by the applicant has been made (paragraph 5.23), that it is not unusual for tenants to stay around 2 years (paragraph 5.31), that 3 public houses may be too many for the village (paragraph 6.02), that there is a greater risk for "wet" public houses (paragraph 6.09) and that there appears to be insufficient marketing information (paragraph 7.16, 7.26 and 7.27).
- 6.10 In summary, he does acknowledge that the traditional public house market has been in gradual decline over many years and that, in his view, this is likely to continue. However, the key point within his findings appears to be that there is insufficient marketing information, particularly of the freehold of the property.



- 6.11 Some marketing information, showing 56 weeks of marketing in the last 4 years has been provided, however, there is, as stated, a lack of marketing of the freehold of the property, as opposed to the lease.
- 6.12 It seems clear that there has been a decline in trade. However, upon the first issue, relating to the firm evidence that the existing use is not viable, I conclude, that the lack of marketing of the freehold does weigh against granting permission.
- 6.13 However, the 2<sup>nd</sup> and 3<sup>rd</sup> issues within the policy must also be considered, namely the question of comparable facilities and the feasibility of them being used.
- 6.14 There are 2 other public houses in the immediate vicinity of the site. The Kings Head and The Queen's Head are both located in the High Street, a very short distance from the site. These other 2 public houses both have car parks, trade kitchen and restaurants. One of them is also located on the main road with higher passing footfall (drivers). Both of these facilities are located within easy walking distance of the Clothworker's Arms and given the close proximity, it is considered highly likely that potential customers would consider it feasible to travel to these facilities and would not be deterred by the additional distance or the nature of the route, which is in a village centre location. It is accepted that some customers may prefer the "wet" public house experience, but it is considered that it cannot be said in general terms that there is a lack of facilities, as the remaining public houses are clearly within walking distance of the site.
- 6.15 It is therefore considered, that there is a concentration of public houses in a very close proximity within the village of Sutton Valence. This concentration is not considered common within the Borough, and indeed, Sutton Valence is only classified as a larger village within the local plan, it is not of a scale of a rural service centre. Therefore, these issues are considered to weigh in favour of granting permission.
- 6.16 It is noted that the COVID-19 situation has clearly had some impact upon the sector and the full extent of this impact at this stage remains unknown. However, there is currently no indication that this will necessarily result in a continual and long term detrimental impact and therefore it is considered that the adverse impact of the virus should only be afforded limited weight and is not overriding.
- 6.17 The applicant has been approached regarding the lack of marketing of the freehold, but has declined to carry out further marketing and wishes the application to be determined on the basis of the submission.
- 6.18 Therefore, a decision must be made upon the application as it stands. The lack of marketing of the freehold weighs against the proposal, but the availability of comparable alternative facilities in close proximity to the site weighs in favour. This is a balanced case. Considering all of the above, on balance, having regard to the concentration of public houses in the vicinity and the extent of alternative facilities which would remain to serve the community, it is concluded that there are insufficient grounds to refuse the application and that the balance weighs in favour of granting permission on the issue of the principle of the change of use.

#### **Impact upon the conservation area**

- 6.19 The local plan and the NPPF both require heritage assets to be conserved in a manner appropriate to their significance. Although not listed, the building lies within a designated heritage asset, being Sutton Valence Conservation Area.

- 6.20 The NPPF seeks to provide uses for heritage assets and the continued use of the building would assist in ensuring that it is maintained within the conservation area. The proposal would retain the character of the front elevation, with a boarded bay window being restored. The plans for the rear extension have been amended and details of materials have been provided. The conservation officer is now satisfied that the proposal would preserve the character and appearance of the conservation area. The design is considered acceptable in its context, being seen with existing adjacent modern development to the rear of the adjacent building.
- 6.21 Materials comprise red bricks for the walls and zinc, with bricks being chosen to match those of the public house, powder coated aluminium fenestration and a membrane for the roof. A materials condition can be attached to ensure that the materials are of appropriate quality and the conservation officer is also satisfied with these materials in this location.
- 6.22 The extension would not affect the Street scene, being located here. It is noted that the garden of the site is within the countryside and the extension is considered modest in relation to the existing building and to have no significant adverse impact upon the openness of the countryside, being in keeping with its context and adjacent development.
- 6.23 A landscaping scheme has also been provided and this allows for more formal planting near to the building (which is within the settlement), with wilder landscaping as it moves towards the countryside, with native tree planting and wildflower meadow. This is considered sensitive to the transition between the settlement and the countryside and would enhance the quality of the rear space within the countryside and conservation area setting.

### **Other Matters**

- 6.24 Other matters include ecology, residential amenity, highways, setting of listed buildings and archaeology.
- 6.25 Taking each of these issues in turn, with regards to ecology, as stated a landscaping scheme with ecological enhancements has been sought and provided. This includes native tree planting and a wildflower meadow, which would enhance the ecological value of the site. Bee houses are also provided as ecological enhancements. The extent of ecological enhancements is considered commensurate to the scale and type of development and would enhance the ecological value and quality of the site.
- 6.26 In terms of residential amenity, given the levels and the siting of the extension, the orientation and the proposed installation of a privacy screen shown upon the plans, it is considered that there are no significant adverse impacts in terms of light, outlook or privacy for any neighbouring property. Moreover, there would be an enhancement in terms of residential amenity, as the proposed dwelling use is considered more compatible with the surrounding dwelling uses than that of the public house which is likely to result in greater noise and disturbance issues. I note that no objections have been received upon residential amenity grounds.
- 6.27 With regards to highways, no off-road parking is proposed, but none exists at present. Given the nature and intensity of the use, with only one unit been proposed, it is not considered that there would be any significant adverse impact, given the existing lawful use of the site. Moreover, the site is located near to a main bus route, being the A274, and is considered within easy walking distance of this. Therefore, given the sustainable location of the site, it is concluded that there are no parking grounds for refusal.

- 6.28 The siting and scale of the proposals are such that there is not considered to be any significant adverse impact upon the setting of any nearby listed buildings. In terms of archaeology, the site lies within the historic core of the Medieval settlement and therefore a watching brief condition, as suggested by the KCC archaeological officer, is considered appropriate and necessary.
- 6.29 With regards to issues raised in representations, a site notice was posted at the site on 19 March 2020 and letters have also been sent to neighbouring properties, such that the required public consultation has been carried out.
- 6.30 The impact upon the heritage asset is dealt with above, and it can be said that the building would not be lost but would be put to a new use which, as stated, is consistent with the aim to provide viable uses set out in the NPPF. The issue of the public house not being offered for sale is dealt with in detail above and the application has not been determined during lockdown. Government advice makes clear that the planning application process and determination of planning applications should continue despite the COVID-19 situation not being fully concluded at this time and therefore it would not be appropriate to delay determination further.
- 6.31 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.32 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 This is a balanced case. The lack of freehold marketing evidence weighs against the proposal, but the existence of comparable alternative facilities in the immediate vicinity weighs in favour. On balance, it is considered that the change of use is acceptable and would not result in a lack of sufficient facilities to serve the community. The proposal is considered to have an acceptable impact upon the character and appearance of the conservation area and residential amenity. It is concluded that, on balance, the development complies with Development Plan policy and the aims of the NPPF and there are no overriding material considerations to indicate a contrary decision. Approval is therefore recommended.

#### **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 this 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) Notwithstanding the provisions 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 development within Schedule 2, Part 1 Classes A-H to that Order shall be carried out without the permission of the local planning authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area and the character, appearance and setting of the listed building.

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

Drawing numbers 798:P01, 798:P02 and 798:P05 received on 05/03/20, 798:P06 received on 12/03/20, 798:P03A and B20059.101/A received on 18/08/20;

To clarify which drawings have been approved and to preserve the character, appearance and special interest of the listed building.

- 4) No development above slab course level shall take place until written details of the materials to be used in the construction of the external surfaces of the development hereby permitted, including rainwater goods, have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed using the approved materials;

Reason: To ensure a satisfactory appearance and that the character and appearance of the conservation area is maintained.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the development hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development

- 6) The ecological enhancements shown on drawing number B20059.101/A received on 18/08/20 shall be installed prior to the first use of the development hereby permitted and shall be maintained thereafter;

Reason: In the interests of biodiversity.

- 7) The privacy screen shown on drawing number 798:P03A received on 18/08/20 shall be installed prior to the first use of the development hereby permitted and subsequently maintained;

Reason: In order to protect privacy for neighbouring occupiers and to provide a satisfactory living environment.

- 8) The developer shall arrange for a watching brief to be undertaken by an archaeologist approved by the local planning authority so that the excavation is observed and items of interest and finds are recorded. No works shall start on

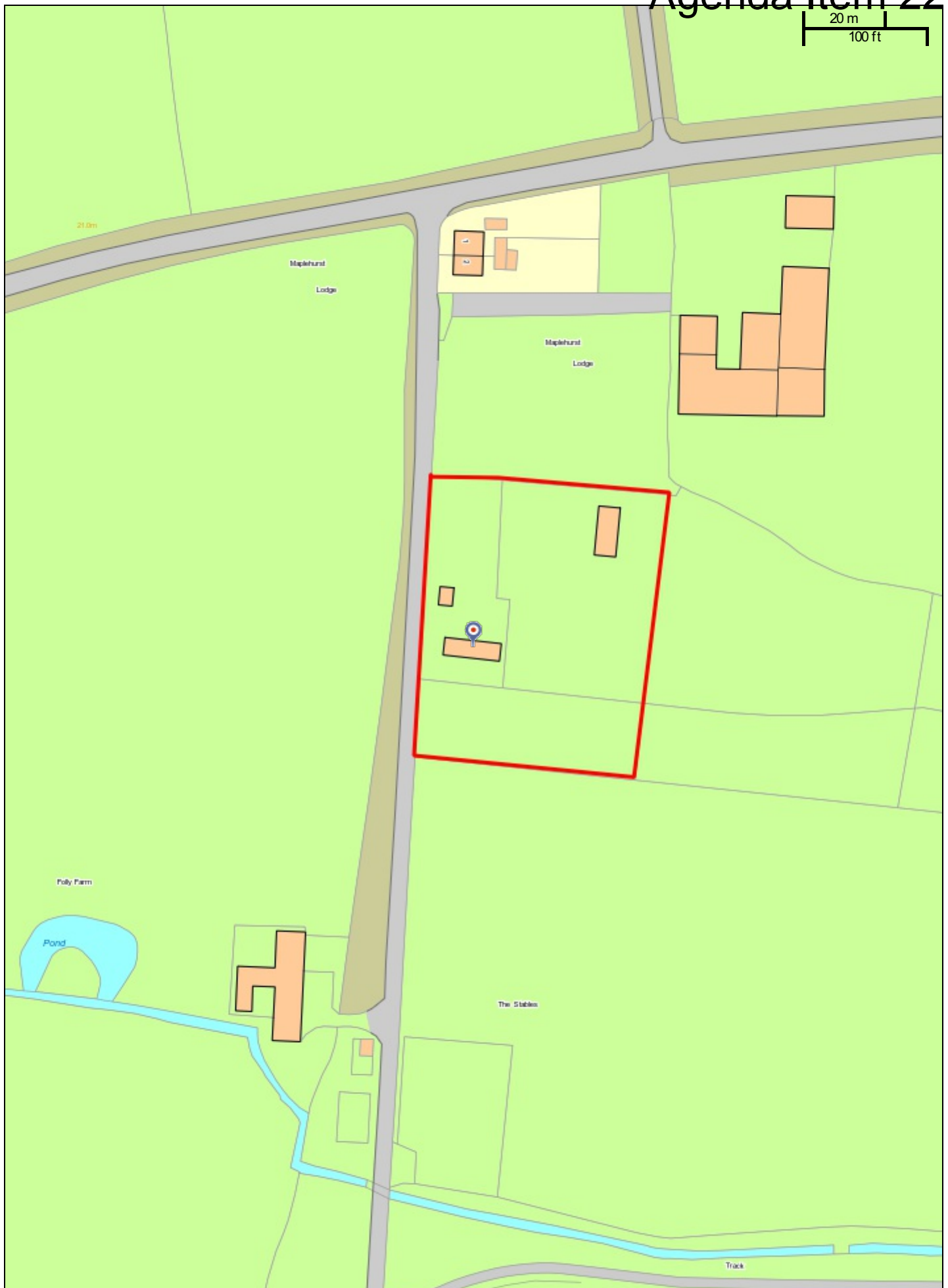
site until a written programme and specification for the work has been submitted to and approved by the local planning authority;

Reason: To enable the recording of any items of historical or archaeological interest.

### **INFORMATIVES**

- 1) Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:1997 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.
- 2) Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.
- 3) Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- 4) No vehicles may arrive, depart, be loaded or unloaded within the general site outside the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.
- 5) Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site.
- 6) The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- 7) Permitted development rights extensions and external alterations have been removed and therefore any future such alterations are likely to require planning permission, including replacement windows with a different material. The use of UPVC units is likely to be strongly resisted

Case Officer: Louise Welsford



20/502182/FULL - Maplehurst Paddock, Frittenden Road, Staplehurst, Tonbridge, Kent

Scale: 1:1250

Printed on: 14/9/2020 at 13:35 PM by JoannaW

<b>REFERENCE NO - 20/502182/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land to use as a residential caravan site for 3 Gypsy families, including the siting of 6no. caravans, with no more than 3no. static caravans/mobile homes, and laying of hardstanding.		
<b>ADDRESS</b> Maplehurst Paddock, Frittenden Road, Staplehurst, Tonbridge, Kent, TN12 0DL		
<b>RECOMMENDATION</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal is acceptable in relation to the potential impact on Frittenden Road, (as well as the access road), the development would have an acceptable impact visually, and would not cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Staplehurst Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined at paragraph 5.01		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr John lee  <b>AGENT</b> Philip Brown Associates
<b>TARGET DECISION DATE</b> 09/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 23/06/2020

Relevant Planning History

12/1793 - An application for permanent use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables. – Approved subject to conditions making the permission personal to the applicant and for “No more than one static residential caravan (double unit), as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 or the existing 'mobile structure' stationed on the site, and one touring caravan, which shall not be used for habitation purposes, shall be stationed on the site at any one time”.

14/0521 - Replacement and relocation of day/utility room – Approved subject to conditions requiring the removal of an existing shed on site and materials details.

15/503360 – Variation of condition 1 of 12/1793 to allow an increase in the number of caravans from two to four – Refused 28/7/15 on the grounds that there was not an over-riding need for the development as there is no creation of an additional household justifying an exception to policy. –The development is not necessary or reasonably required such that it would fall within one of the permitted exceptions of policy ENV28 or to override any other relevant policies of the Maidstone Borough Wide Local Plan 2000.

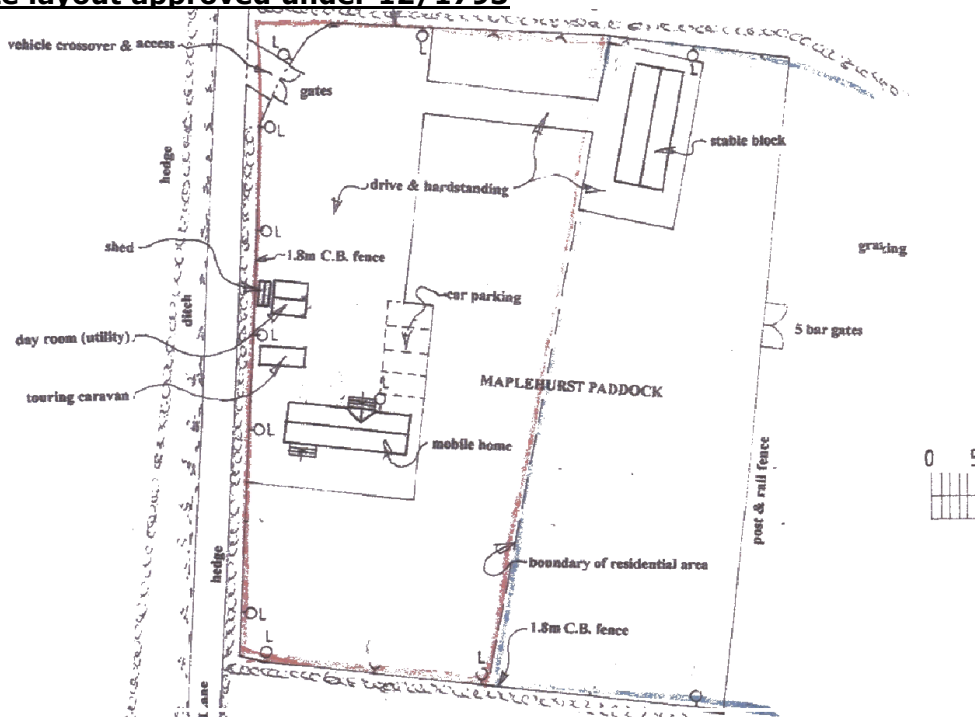
17/502997/FULL - Removal of condition 2 of previously approved application MA/12/1793 (An application for permanent use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables- Refused 12/10/2017 on the following grounds: Notwithstanding frontage landscaping the generally exposed and open nature of the locality, landscaping is insufficient to mitigate the visual harm caused by the individual and cumulative visual impacts of the current use of the site as a gypsy and traveller plot. Furthermore the presence of nearby unlawful Gypsy and Traveller development fronting Maplehurst Lane has resulted in cumulative visual harm further eroding the appearance of Maplehurst Lane from its former substantially open and undeveloped rural character. Relaxation of the condition as sought would therefore preclude any possibility of the site returning to its former substantially open and undeveloped rural condition resulting in harm in perpetuity to the special landscape quality and rural character of the area contrary to the provisions of policies ENV28 and ENV34 of the adopted local plan and policies SP17 and DM15 of the emerging local plan and Policy PW2 of the Staplehurst Neighbourhood Plan. Appeal (ref: 3197191) Allowed 09/04/2019

A costs award was made against the Council in respect of continued defence of the appeal under ref: 3197191. The Inspector found that the Council had no reasonable chance of defending the refusal decision '...as it would have been clear the cumulative effects had already been judged to be acceptable within the context of other appeals'. Please see Appendixes 2 & 3.

## 1 DESCRIPTION OF SITE

- 1.01 The application site is located on the east side of Maplehurst Lane a short distance to the south of its junction with Frittenden Road. Maplehurst Lane comprises a narrow un-adopted track flanked by mainly open countryside to the south of Frittenden Road.
- 1.02 The application site is itself is rectangular in shape extending back from Maplehurst Lane in an easterly direction 58 metres. Beyond the application site itself is an additional plot of land owned by the applicant stretching east a further 67metres. This second plot is laid out as horse paddocks.

### Site layout approved under 12/1793





- 1.03 Fronting Maplehurst Lane is a dense native species hedgerow approximately 2 metres in height behind which is a close boarded fence. Fencing approximately 1.8 metres in height also defines the north and south site boundaries for just over 50 metres back from Maplehurst Lane. The entrance to the site is in the north western corner, access is restricted by a wrought iron gate.
- 1.04 In the south west corner of the site and set just over 5 metres back from Maplehurst Lane is the mobile home occupied by the applicant. A short distance to the north is a child's play house with a further store building to the north of this. To the south of the mobile home is a dayroom with another shed sited a short distance to the north of this and what appears to be another child's playhouse erected close to the southern site boundary. Close to the north site boundary and set back just over 40 metres from Maplehurst Lane is a stable block. The site as it is currently in use is in accordance with 12/1793 best demonstrated with the site plan on the preceding page.
- 1.05 Existing gypsy and traveller (G&T) development is evident in the area. The location of these sites, the number of mobile homes and stables as well as a planning history of each site is detailed in the map provided as Appendix 1 to this report.
- 1.06 In the wider context the application site is located in countryside identified as a Landscape of Local Value, The Sherenden Wooded Hills within the Low Weald.

## **2. PROPOSAL**

- 2.01 The application seeks to change the use of the land to that of a residential caravan site for 3 gypsy families, including the siting of 6 caravans, with no more than 3 static caravans/mobile homes and the laying of additional hardstanding.
- 2.02 To clarify there would be a total of 3 static caravans and 3 tourers on site (including the existing caravan) on site. The existing caravan and stables building would not be relocated.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017:

DM1 – Principles of good design

DM15 – Gypsy, Traveller and Travelling Showpeople accommodation

DM30 – Design principles in the countryside

Staplehurst Neighbourhood Plan 2016:

Policies PW2, PW4

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Supplementary Planning Guidance:

Planning Policy for Traveller Sites' (PPTS)

Maidstone Landscape Character Assessment (amended 2013)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 6 representations were received from neighbouring properties regarding the proposed development as well as one representation made by a neighbouring Parish Council.

In terms of the issues raised, these are summarised as the following:

- That the development would have a detrimental impact upon neighbouring amenity.
  - The development would not be in accordance with local and national planning policies
  - The development would have a detrimental impact upon the character and appearance of the area and the surrounding landscape (the application site is within the Low Weld landscape of local value) by way of detrimental urbanisation of the countryside.
  - Disturbance from the site in terms of light pollution
  - Capacity of physical infrastructure, in this instance the area suffers from flooding.
  - The development would have a detrimental impact upon the wider highway network in terms of traffic generation.
- 4.02 Representations received indicate concerns that the development is seeking to establish even further mobile homes on the site beyond what has been requested. Should permission be forthcoming and the applicant wishes to add additional mobile homes to the site this would have to be assessed as part of a future planning application. A recommended planning condition will limit the number of caravans stationed on the site.
- 4.03 Previous refusals at the application site are also raised, specifically the 2015 application referenced above. It should be noted that this application was determined prior to the adoption of the current plan Local Plan in October 2017 and guidance. Policy ENV28 is specifically mentioned (as well as the Maidstone Borough Wide Local Plan 2000.
- 4.04 A number of representations reference Staplehurst Neighbourhood Plan policy PW2.

## **5. CONSULTATIONS**

### Staplehurst Parish Council (Summarised)

- 5.01 Objection: Councillors recommend that the application be REFUSED and referred to MBC Planning Committee were the Planning Officer minded to approve the application for the reasons listed below.
- The application site is within an area designated as a Landscape of Local Value
  - The application does not comply with Policy DM15.
  - The proposed development would breach Condition 3 of appeal decision ref. 18/319791 (17/502997/FULL)
  - The application is incompatible with Staplehurst Neighbourhood Plan policies PW2 (development in the countryside) and PW4 (consideration for historic landscape).
  - Maplehurst Paddock is not an allocated development site in the Local Plan and MBC's ability to deliver a five-year housing supply obviates the need for windfall sites.
  - Development of the surrounding Maplehurst area has seen land subdivided, with growth resulting in increased hardstanding, additional buildings and more vehicular traffic on a small lane inaccessible to public transport.

### Environmental Health

- 5.02 The consultee raises no objections, subject to comments above plus conditions and informatives relating to foul sewerage and outdoor lighting.

### KCC Highways

- 5.03 This consultee replied to the consultation with its standard informative. No objections raised

Natural England

- 5.04 This consultee has replied to the consultation with their standing advice.

Environment Agency

- 5.05 No objections raised

**6. APPRAISAL**

**Main Issues**

- 6.01 The key issues for consideration relate to:

- Need for Gypsy and Traveller Pitches
- Supply of Gypsy Sites
- Gypsy Status
- Design and landscape impact
- Cumulative impact
- Amenity Impact
- Highways
- Flooding
- Sustainability

**Need for Gypsy and Traveller Pitches**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period is shown in the table on the following page.
- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

**Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

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

**Supply of Gypsy sites**

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

**Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

Type of consents	No. pitches
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

**Gypsy Status**

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

life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

- 6.13 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.14 In terms of the applicant their status as a Gypsy has been explored at appeal and has been confirmed in previous applications most recently as of 12/10/2017 as part of 17/502997/FULL, the subsequent appeal decision was issued on 09/04/2019.
- 6.15 When asked to demonstrate the status of the occupants of the additional mobile homes the applicant has indicated that the first mobile home would be for his eldest daughter who is getting married early next year to a member of the travelling community. The second would eventually be for the applicant's younger daughter but at the moment is needed for his nephew that travels and works alongside him. The applicant's nephew and wife are expecting their first child and need a stable place to raise their child.
- 6.16 The applicant has provided evidence regarding his Gypsy & Traveller status. The applicant indicates that he continues to live a travelling life, earning a living dealing in horses as well as attending horse fairs and is well known within the community having travelled throughout the UK and Europe with family as well as other Gypsy traveller families. The applicant has also included Facebook screenshots which indicate historic photos of the applicant's parents. Demonstrating that as well as the applicant's current involvement with the travelling community he has descended from travellers.

**Design and landscape impact**

- 6.17 Policy DM1 states that development must respond positively to, and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality design approach.
- 6.18 Policy DM15 states that Gypsy and Traveller development must not result in harm to the local landscape character and that development should be well screened by existing landscape features.
- 6.19 Policy DM30 requires, amongst other things, that development maintain, or where possible, enhance local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated.
- 6.20 Policy PW2 of the Staplehurst Neighbourhood Plan States "Proposals for new development in the countryside beyond the extended village envelope will be assessed in terms of the potential impact of the development upon the visual setting and landscape features of the site and its surroundings, .... Proposals which fail to demonstrate these impacts can be satisfactorily addressed will not be supported."
- 6.21 Policy PW4 continues stating that new development within Staplehurst must have regard to the wider landscape.

- 6.22 The application site is located in countryside identified as a Landscape of Local Value, The Sherenden Wooded Hills within the Low Weald. In terms of elements of this landscape that are relevant to this application the Landscape Character Assessment frequently references the hedgerows stating that "Typically views are interim and contained by the tall thick hedgerows, woodlands and majestic hedgerow trees." It also recommends that these hedgerows be conserved and restored where lost.
- 6.23 Frittenden Road features dense hedgerows along the roadside and the access road also has dense vegetation along the fronts of site boundaries. The application does not seek to remove any vegetation from the front of the site and as such it is not considered that the development would have a detrimental impact upon this feature of the landscape. There is substantial screening all around the site, with the site only visible from neighbouring traveller sites.
- 6.24 In terms of the proposal, the application would establish a mobile home immediately to the south of the stables, as well as a tourer to the east of the stables. Another mobile home and tourer would be located 25 metres to the south of the stable, with another tourer placed 7.4metres to the north west of the existing mobile home on the site. The proposal includes associated hardstanding.
- 6.25 Information submitted by the applicant indicates that the applicant aims to purchase mobile homes that have a similar appearance to the existing one on site, as has been photographed. It would therefore have rendered external walls, grey slate roof tiles and uPVC windows and doors.
- 6.26 The application site is located outside the settlement boundary of Staplehurst in an area with a mix of traveller sites and the settled community. Views of the site are most prominent from immediately in front of the access. As noted in the appeal inspector comments provided earlier in this report, it is not possible to view into the site from any other public areas.
- 6.27 As site photos indicate, whilst the land within the ownership of the applicant is open it is bordered to the rear by large mature trees. There are no public rights of way within the immediate vicinity of the application site. The existing mobile is located to the southern end of the site and the stable block is at the back of the site at the southern end. The access gate allows views into the site. The driveway apron and within the site is finished in shingle with a substantial well maintained lawn. The site is enclosed by a close board fence stained dark brown, with substantial vegetative screening along the access road. It has previously been considered by planning officers (12/1793, 17/502997/FULL), as well as by the planning inspectorate (3197191 that views of the site access and the wider site itself are not prominent and that the site is well screened and this assessment is still considered sound.
- 6.28 Whilst it is accepted that the development would result in this site more 'intensively' occupied, in terms of its landscape impact this is not development within an open, visible countryside location and the additional caravans are restricted to the existing curtilage, this is not seeking to expand the site in terms of its scale. The site is well screened by existing landscape features with large mature trees to the very rear of the site as well as the hedgerows. There are no public rights of way in the immediate vicinity and no public views into the site. The only views onto the site are from Maplehurst Lane when viewing through the wrought iron gate.

- 6.29 In summary, the appeal inspector in the decision letter allowing the appeal under reference 3197191 describes the current application site as follows (paragraph 10): *"The site is well screened from views at its frontage. The dense hedge, which is referred to in previous application documents, has obviously matured over time. This and the close-boarded fence to the rear of the hedge means that the site has little visual effect for the most part, adjacent to its frontage. The access point allows views into the site but it must be accepted that this is from a very restricted area on the road, just outside the access".*
- 6.30 The appeal inspector goes on to state *"In addition, paragraph 26 of the Planning Policy for Traveller Sites (PPTS) indicates that it is undesirable to create the impression that sites and its occupants are deliberately isolated from the rest of the community. I accept that some views of the site are available from the south and north but these are very limited in their extent and I consider that the structures on the site do not dominate the views from these areas and represent only glimpses. Therefore, I consider that the visual effects of the site are very limited and only have an effect when adjacent to the access point. In relation to the requirements of Policy DM 15, I consider that this does not represent significant harm".*

**Cumulative impact**

- 6.31 Policy DM15 states that development must not result in significant harm to the landscape and rural character of the area. Impact on these aspects will be assessed with particular regard to: b) "Cumulative effect – the landscape impact arising as a result of the development in combination with existing lawful caravans;" and c) that the development should be well screened by existing landscape features. (my emphasis).
- 6.32 Concerns have been expressed in the comments received regarding the cumulative impact of caravans in this location.
- 6.33 The number of permissions in the area is detailed within the site description section. In terms of the number of mobile homes and ancillary buildings in the area the following taken from the map included as an appendix (this indicates the number of permissions not what is present on site):
- Static Caravans: 14
  - Tourers: 12
  - Day Rooms: 6
  - Stables: 2
- 6.34 The current application seeks to add caravans to the existing site currently occupied by a mobile home. This proposal is not seeking to expand the residential curtilage of the site onto additional land owned by the application to the east. Were mobile homes to be added elsewhere on the wider site at a later date, by the applicant or other parties, the impact of these caravans would need to be assessed under a separate application.
- 6.35 The assessment of applications against DM15 as drafted, requires an assessment of potential cumulative impact from the proposal purely on the basis of 'landscape impact'. As set out earlier in this report and confirmed by an appeal inspector the application site is currently well screened by natural landscape features. This situation is in accordance with paragraph 1.c policy of DM15 and does not further intrude into the open countryside to the east of the site. Previous officer reports and appeal decisions indicate that this is not a prominent site, what public views of the site are available restricted to "glimpses" and there are no elevated positions to view this site from where

the additional caravans could have a harmful landscape impact. The additional caravans on site would be seen in the context of other existing gypsy and traveller accommodation. In this context and with reference to the earlier costs decision against the Council no grounds have been found to refuse the current application on the basis of cumulative landscape impact.

- 6.36 A concern has been expressed that the application proposal would result in the formation of a hamlet. The impact of the two additional caravans on the countryside has been correctly considered in this report both individually and cumulatively with other existing local development. The proposal has been considered against the adopted Local Plan which only recognises the urban area, rural services centres and the larger villages as settlements with all areas outside these areas considered as countryside. The advice at paragraph 79 of the NPPF is also that "Planning...decisions should avoid the development of isolated homes in the countryside..."
- 6.37 Should permission be forthcoming, landscaping conditions will be imposed requesting landscaping along the northern and southern border of the site to provide enhanced landscape screening of the site.

#### **Ecology**

- 6.38 The application site is a managed, grass covered field with hardstanding upon it, and as a result it is not considered that it is likely a suitable habitat for any species and there is no requirement for any ecological surveys.
- 6.39 Should permission be forthcoming conditions will be imposed requiring the applicant to submit details of biodiversity enhancement to achieve a net biodiversity gain and this could be in the form of bird and bat boxes.

#### **Amenity**

- 6.40 Policy DM1 states that applications must respect the amenity of neighbouring properties and that development must not result in overlooking, visual intrusion, loss of privacy or light enjoyed by nearby properties.
- 6.41 The closest property is located immediately north of the application site at Maplehurst Lodge. In terms of the amenity impact on this dwelling it was previously considered by planning officers under application 12/1793 that this dwelling was set sufficiently back that would not be a significant impact in terms of loss of light, privacy or overbearing impact. The same was previously considered for No's 1 & 2, the two storey semi-detached pair of houses which are approximately 40 metres to the north.
- 6.42 When considering the distances involved and that the proposed caravans although raised off the ground are single storey structures the proposal would not cause any loss of light or overbearing impact on neighbouring properties.
- 6.43 The dwelling upon Maplehurst Lodge would be 30 metres away from the proposed tourer and the northern end of the site. The closest static caravan would be located behind the existing stable block on the site reducing its potential impact further.

#### **Highways**

- 6.44 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.



- 6.45 The vehicle movements generated by two additional families on the site would be easily accommodated on the local road network. The current proposal does not raise any highway safety issues in relation to the junction of the lane with Frittenden Road to the north. A refusal would not be warranted in relation to the individual impact from the additional caravans currently proposed or in terms of the cumulative impact from other local development.
- 6.46 The current access arrangements to the site are considered acceptable and the application does not seek the removal of vegetation from the front of the site to facilitate vehicular movements.
- 6.47 No objections to the development have been raised by the local highways authority.

**Flooding**

- 6.48 The application site is located adjacent Flood Zone 2 & 3 (although not within) Comments submitted by a neighbour include a photo of the area suffering from flooding.
- 6.49 In the appeal decision relating to the existing mobile home on the application site, the inspector concluded '*the available evidence (on flooding) is not sufficiently strong to justify withholding permission for this reason alone*'. The same conclusion has been reached in relation to the current application for two additional caravans and three tourers.
- 6.50 The Environment Agency has been consulted on this application and previous applications and have not raised objections to the stationing of caravans on the site. In light of the response from the Environment Agency who the Local Planning Authority would go to for expert advice on this issue, it is not considered that a flood event outside of the application site would be a sufficient reason to refuse the application on grounds of flood risk.

**Sustainability**

- 6.51 The site is approximately 1.2km to the village of Staplehurst where there is access to a comprehensive range of services, amenities and facilities. Whilst the majority of trips are likely to be by car, the site is considered reasonably sustainable in terms of its proximity to the Rural Service Centre. This is a view supported at appeal by Inspectors on nearby sites.
- 6.52 There are a number of other traveller sites within the immediately locality; either accessed off Maplehurst Lane or Parkwood Lane to the east it is considered that the current application proposal– along with others in the locality – would not dominate Staplehurst.

**Other Issues**

- 6.53 The fact that the development would be in breach of condition 3 of the appeal decision has been referenced. The condition reads as follows: "No more than 2 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 1 shall be a static caravan) shall be stationed on the site at any time."
- 6.54 Condition 3 seeks to prevent additional mobiles being stationed on the application site without the opportunity to consider the potential impact of these caravans as part of a

formal planning application. The current formal planning application, (that would not be required in the absence of condition 3) considers the impact of these additional caravans.

### **Human Rights and Equality**

6.43 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home.

6.44 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.

### **Conclusion**

6.55 The proposal is acceptable in relation to the potential impact on Frittenden Road, (as well as the access road), the development would have no significant visual impact, or cause any loss of amenity to neighbouring properties nor would any detrimental highways impact occur.

6.56 The development and its cumulative impact would not have a harmful impact upon the character and appearance of the wider countryside, nor would the additional mobile homes and families living on site 'overwhelm' the nearest established settlement, nor would the development cause any increase in flooding. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.

## **7. RECOMMENDATION**

Grant Permission subject to the following conditions

- 1) The additional mobile homes hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document); Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than six caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than three shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The static caravan or mobile home shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan as Proposed) hereby approved; Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time; Reason: To safeguard the

visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.

- 4) The caravans hereby approved shall not be occupied until a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in writing by the local planning authority. The scheme shall use predominantly native or near-native species as appropriate and show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, the location of any habitat piles of cut and rotting wood and include a plant specification, implementation details, a maintenance schedule and a [5] year management plan. The landscape scheme shall specifically address the need to provide tree planting to screen the northern and southern site boundaries.

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

- 5) The caravans hereby approved shall not be occupied until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping 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 from the first occupation of a property, commencement of use or adoption of land, 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

- 6) The caravans hereby approved shall not be occupied until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to occupation of the caravans and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- 7) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority; Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.

- 8) 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.

- 9) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site; Reason: In order to safeguard residential and local amenity generally.

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

Application for Planning Permission

Proposed Site Layout Plan

Design and Access Statement

Existing Site Layout Plan

Site Location Plan

Design details

Reason: To clarify which plans have been approved.

Case officer: William Fletcher







# Appeal Decision

Hearing Held on 12 March 2019

**by Tim Wood BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 April 2019**

**Appeal Ref: APP/U2235/W/18/3197191**

**Maplehurst Paddock, Frittenden Road, Staplehurst, Kent TN12 0DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr John Lee against the decision of Maidstone Borough Council.
- The application Ref 17/502997/FULL, dated 5 June 2017, was refused by notice dated 12 October 2017.
- The application sought planning permission for permanent use of land as a home for a gypsy family, with a mobile home, touring caravan, dayroom and stables without complying with a condition attached to planning permission Ref MA/12/1793, dated 19 September 2013.
- The condition in dispute is No 2 which states that: *"The use hereby permitted shall be carried on only by Mr Lee, his wife and children"*.
- The reason given for the condition is: *"Due to the lack of alternative sites available to meet the applicant's personal needs"*.

## Decision

1. The appeal is allowed and planning permission is granted for permanent use of land as a home for a gypsy family, with a mobile home, touring caravan, dayroom and stables at Maplehurst Paddock, Frittenden Road, Staplehurst, Kent TN12 0DL in accordance with the application Ref 17/502997 dated 5 June 2017, without compliance with condition number 2 previously imposed on planning permission Ref MA/12/1793 dated 19 September 2013 and subject to the conditions set out in Schedule 1 of this decision.

## Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. Since the planning application was refused by the Council in June 2017, it has adopted the Maidstone Borough Local Plan (LP) on 25 October 2017. The main parties have agreed that some of the policies referred to in the decision notice within the previous local plan are no longer relevant.
4. I undertook an unaccompanied site visit to the area prior to the Hearing. It was agreed by all at the Hearing that this was sufficient to enable me to properly consider the appeal.

5. The Council accepts that the appellant satisfies the definition of a gypsy.

### **Main Issue**

6. The main issue in this appeal is the effects of the proposal on the character of the surrounding area.

### **Reasons**

7. The appeal site comprises around 1.4 hectares of land on the east side of Maplehurst Lane, which is a single track road leading from Frittenden Road. The site is about 1.2km to the east of Staplehurst. The site contains a mobile home, a day room and a stable building, located on the western part of the site.
8. Access to the site is gained from Maplehurst Road at the northern end of its frontage. Hedges with close-boarded timber fences behind enclose the west (road frontage), north and south boundaries.
9. Policy DM 15 of the LP states that planning permission for gypsy and traveller accommodation will be granted if the site is allocated for that use or if a number of criteria are met; these include, most relevant to this appeal, that there is no significant harm to the landscape or rural character; the Council confirmed at the Hearing that the other criteria are not contested. In relation to the effects on landscape, the policy makes reference to the cumulative effects of existing lawful caravans and to screening of the development by existing landscape features.
10. The site is well screened from views at its frontage. The dense hedge, which is referred to in previous application documents, has obviously matured over time. This and the close-boarded fence to the rear of the hedge means that the site has little visual effect for the most part, adjacent to its frontage. The access point allows views into the site but it must be accepted that this is from a very restricted area on the road, just outside the access. In addition, paragraph 26 of the Planning Policy for Traveller Sites (PPTS) indicates that it is undesirable to create the impression that sites and its occupants are deliberately isolated from the rest of the community. I accept that some views of the site are available from the south and north but these are very limited in their extent and I consider that the structures on the site do not dominate the views from these areas and represent only glimpses. Therefore, I consider that the visual effects of the site are very limited and only have an effect when adjacent to the access point. In relation to the requirements of Policy DM 15, I consider that this does not represent significant harm.
11. I have taken account of the presence of other gypsy and traveller development nearby as Policy DM 15 requires an assessment of any cumulative effect. However, it should be born in mind that the development at the appeal site has been in place for a number of years and pre-dates these other sites. In addition, I can see that the cumulative effect was taken into account, and found to be acceptable, when permission was given for land nearby. Furthermore, the existing planning permission at the appeal site would allow the site to be occupied by the appellant/wife/children and it must be accepted that this could see the site occupied in this manner for several decades, a point acknowledged by the Council at the Hearing. Therefore, regardless of the

outcome of the current appeal, the site could be occupied lawfully for many years to come. I consider that this must add weight in favour of the appeal.

### **Other Matters**

12. There was some discussion at the Hearing in relation to the supply of gypsy and traveller sites within the Borough and whether the Council can demonstrate a suitable supply. I have concluded that the proposal would be in accordance with the provisions of the development plan and is acceptable, regardless of the supply of such sites in the Borough. Therefore, there is no need to examine the detail of the demand and supply of such sites as, it would either be a neutral factor or weigh in favour of the appeal, and so would not affect its outcome in this case.

### **Conditions**

13. I have taken account of the advice in the Planning Practice Guidance in relation to the use of conditions. The effect of allowing the appeal is to create a separate planning permission and so the imposition of a full spectrum of conditions is necessary, rather than simply removing/omitting the condition in dispute. So that the use of the land accords with the provisions of Policy DM 15 it is necessary to include a condition which restricts the occupiers to gypsy and travellers as defined in the PPTS. In order to limit the effects of the development on the area conditions relating to the number of caravans, lighting and no commercial activities are justified. The hedge at the frontage has been planted and maintained so that it forms an effective screen; a condition requiring that it is maintained to a minimum height of 3m is justified so that it remains so. I shall include a condition which identifies the approved plan so that the scope of the permission is clear.
14. There was discussion in relation for the need for a condition which restricts permitted development within Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This covers various temporary structures and uses and, in my view, would not be relevant or strictly applicable to this development. Therefore, I shall not include such a condition.

### **Conclusion**

15. I have concluded that the proposal would have no significant effects on the character of the area and in all other respects, complies with Policy DM 15. It is notable that, even in the absence of this appeal, the site could be legitimately occupied in the same manner for several decades to come. I find that the proposal would give rise to no harm and the appeal is successful.

*S T Wood*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

P Brown...Planning Consultant  
J Lee...Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

G Parkinson...Senior Planning Officer

### INTERESTED PERSONS:

J Perry...Borough and Parish Councillor  
S Forward...Parish Councillor

### DOCUMENTS

- 1 Plan showing development in the surrounding area

### **SCHEDULE 1, CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan as received by the Council on 7 June 2017.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 3) No more than 2 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 1 shall be a static caravan) shall be stationed on the site at any time.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No additional external lighting shall be erected at the site unless details have previously been submitted to and approved in writing by the local planning authority. Any additional lighting shall be erected in accordance with the approved details and retained in that manner thereafter.
- 6) The existing hedgerow fronting Maplehurst Lane shall be allowed to grow and be maintained to a height of no less than 3m. Any part of the hedgerow which becomes dead, dying, diseased or removed shall be replaced within the first available planting season with plant(s) of the same species.

## Costs Decision

Hearing Held on 12 March 2019

**by Tim Wood BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 April 2019**

### **Costs application in relation to Appeal Ref: APP/U2235/W/18/3197191 Mapplehurst Paddock, Frittenden Road, Staplehurst, Tonbridge, Kent TN12 0DL**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr John Lee for a full award of costs against Maidstone Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for permanent use of land as a home for a gypsy family, with a mobile home, touring caravan, dayroom and stables without complying with a condition attached to planning permission Ref MA/12/1793, dated 19 September 2013.

### **Decision**

1. The claim for Costs is allowed.

### **The submissions for the appellant**

2. The Council has been unreasonable in relying on the cumulative effects of the proposal, along with unlawful development nearby, when Policy DM 15 refers to other lawful development. The Council have also maintained an objection to the appeal proposal when permanent and non-personal permissions have been granted on sites nearby. It should have been clear that the Council had no reasonable prospect of success at the appeal.
3. The Council have acknowledged that the current occupation of the site could lawfully continue for many years to come, irrespective of the outcome of the appeal. Furthermore, the Council's stated aim to hope for the reinstatement of the site to some rural form would not be achieved as they have not imposed any condition on the original permission which requires it. Their position is unrealistic and unreasonable.

### **The response by the Council**

4. The Council have provided evidence in the statement and during discussions at the Hearing to support its case. The issue of the effect on the character of the area is highly subjective and the Council has offered its legitimate view.
5. The Council accept that the site can be occupied for some time but the prospect of reinstatement is a real one.

6. With reference to the 2 recently allowed schemes nearby, this reinforces the Council's case in relation to cumulative effects. The reference to unlawful developments in the reasons for refusal was legitimate as they were there and had an effect. The Council's case is a legitimate one and is reasonable.

### **Reasons**

7. The national Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
8. The terms of Policy DM 15 are clear; in relation to the cumulative effects of development it states that this relates to "...the landscape impact arising as a result of the development in combination with existing lawful caravans...". Not only is this abundantly clear but it is entirely logical as the future of any unlawful development would be uncertain and there is a possibility that unlawful development could be absent within a short time period. Therefore, I agree that to take specific account of unlawful development in this case is clearly unreasonable.
9. In relation to the nearby development that then became lawful as a result of appeals (Refs APP/U2235/W/17/3177144 and 3177145) the matter of the cumulative effects on the locality were considered. This apparently also took account of the presence of the existing development at the appeal site. Within the appeal decision the Inspector refers to the Council accepting that the sites in question (just a very short distance to the south) did not make any contribution to the landscape qualities of the surrounding wider area. In addition, the Inspector concluded that the sites in question at that time cannot be viewed as having the level of sensitivity attributable to other parts of the locally designated landscape. It was stated further in the decision by the Inspector that the combined effects are not significantly harmful. The site which is the subject of the appeal now before me is referred to as a lawful site to the north. Therefore, even with the prospect of the continued occupation of the site which I am now considering, my fellow Inspector determined that the cumulative effects of the development were acceptable.
10. In my view, the Council should have had regard to this in their consideration of the current appeal. Even though the appeals relating to the other sites post-dated the Council's refusal of the current scheme, they had ample opportunity to re-visit their position, which they did not do. In my judgement, if they had done so the only reasonable outcome would have been to discontinue their resistance to the appeal scheme as it would have been clear that the cumulative effects had already been judged to be acceptable within the context of the other appeals.
11. The fact that that the appeal site could be occupied in its current state regardless of the outcome of the appeal for several decades to come provides considerable additional weight to the appellant's position.
12. For the above reasons, I consider that the Council has acted unreasonably and has sought to prevent development which should have been allowed. Therefore, in respect of the matters identified above, their actions have meant

that the appellant has incurred unnecessary expense and an award of costs is justified.

### **Costs Order**

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Maidstone Borough Council pay to Mr John Lee, the costs of the appeal proceedings described in the heading of this decision.
14. The applicant is now invited to submit to Maidstone Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*S T Wood*

INSPECTOR



<b>REFERENCE NO -</b> 20/502770/FULL		
<b>APPLICATION PROPOSAL</b> Erection of single storey side extension, part single storey part two storey rear extension, new upper floor, together with external alterations and change of use of commercial to residential to form 10 No. residential units.		
<b>ADDRESS</b> Holman House, Station Road, Staplehurst, TN12 0QQ.		
<b>RECOMMENDATION</b> Grant Subject to Conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal represents sustainable development within the built up area. Whilst a net increase over the previous approval for 7 units, it is considered that the proposal represents good quality design and will provide acceptable living conditions for future occupiers and will not adversely impact on the amenity of neighbours. There are no highways, or other technical or environmental objections.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of Staplehurst Parish Council and Ward Member request.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Arrant Land Ltd <b>AGENT</b> Blink Architecture
<b>TARGET DECISION DATE</b> 05/10/20	<b>PUBLICITY EXPIRY DATE</b> 30/07/20	

### **Relevant Planning History**

The following summarises the relevant planning history relating to the property's previous use and the more recent development proposals.

#### **Previous Use**

96/0704 - Single storey rear extension. Approved 08.07.1996

97/1552 - Change of use of the building from a mixed retailing (A1) and residential uses to mixed office (B1) and residential uses together with the erection of a two and single storey rear extension. Approved 06.02.1998

05/0519 - Erection of a rear conservatory. Approved 04.05.2005

#### **Latest Proposals**

17/504258/FULL - Change of use and conversion of vacant business premises (offices B1) to residential (dwellinghouse C3) Approved 07.11.2017

18/501928/FULL - Conversion of existing commercial/residential building together with single storey side extension and single storey rear extension, to provide 7no. residential apartments. Approved 28.09.2018 19/503229/SUB - Submission of details pursuant to conditions; 6 Parking layout, 10 Construction site parking, & 13 Landscaping scheme. Approved 31.07.2018

20/501321/FULL - Erection of a second floor extension and rear first floor extension, including alterations to fenestration, to provide 3No. additional apartments and amendments to external landscaping and parking. Invalid 19.06.2020. (Officer Note – 20/501321/FULL was treated as invalid due to the incorrect description and format of development and has been re-submitted as the present application.)



## **MAIN REPORT**

### **1. DESCRIPTION OF SITE**

1.01 The application site comprises a two storey detached building that has historically been in mixed, commercial (bakery, retail and most recently offices) and residential uses. Access is taken directly off Station Road to an existing driveway that serves an established area of hardstanding and former garages / storage to the rear. The established access runs alongside the boundary with The Yews to the north, which has a garage between the main house and the boundary. Both aerial and historic maps show that this access has existed for some considerable time.

1.02 Staplehurst Free Church lies immediately to the south of the application site and is a large modern building extending along the majority of the rear boundary of the application site and with a large car park to the front. Otherwise the immediate surroundings are principally residential. (photo shows rear garden of application site)



1.03 Along the rear boundary, a wide access path separates the site from the rear boundaries of properties in Hurst Close. A short distance to the north of the application site, a backland dwelling, The Roost, takes access of the northern, wider section of the rear access. The application scheme does not propose any access to this path.

1.04 The existing building is of no heritage or townscape significance and there are no heritage assets or protected trees within or adjacent to the application site; the closest listed building being Sorrento (GII), some 70m north east, on the western, opposite side of Station Road.

### **2. PROPOSALS**

2.01 In 2018 planning permission was granted for a scheme to provide 7 units. The latest proposals involve the change of use from mixed commercial/residential to purely residential, in the form of 10 No. apartments, together with alterations to the building which include:

- part single / part two storey rear extension
- single storey side extension
- new second floor
- associated external alterations

2.02 To the front, there will be two visitor spaces, a drop-off area of permeable surfacing and refuse storage, which will be set behind a 1.5m new front boundary wall and new hedge planting. To the rear the existing access leads to resident parking which follows the broad layout of the approved scheme, albeit the 9 spaces previously approved will be increased to 10.

2.03 In addition to a communal garden of 107 sq.m, three of the ground floor apartments have external terraces, the largest of which is substantial at 50 sq.m.



- 2.04 Adjacent to the neighbour to the north an acoustic fence will be constructed, with a planting bed extending up to 2.5m in depth. A wildflower border will extend along the southern and eastern boundaries.
- 2.05 In terms of the unit mix and size standards, compared to the 2018 permitted scheme and set against national space standards, the scheme will provide....

National Space Std

Plot 1	1 bed	52m2	(same as previously approved)	50m2	+2
Plot 2	2 bed	85m2	(amended from 87m2)	70 m2	+15
Plot 3	1 bed	48m2	(same as previously approved)	50m2	-2
Plot 4	2 bed	75m2	(amended from 61m2)	70 m2	+5
Plot 5	1 bed	47m2	(same as previously approved)	50m2	-3
Plot 6	1 bed	46m2	(same as previously approved)	50m2	+4
Plot 7	1 bed	48m2	(same as previously approved)	50m2	-2
Plot 8	1 bed	69m2	(additional unit)	50 m2	+19
Plot 9	2 bed	62m2	(additional unit)	61 m2	-1
Plot 10	2 bed	85m2	(additional unit)	<u>70 m2</u>	<u>+15</u>

Net +52 sq.m

- 2.06 Whilst four of the units fall slightly below the national space standards, these units are unchanged from the previous 2018 approval. Notably the three new units each exceed space standards.
- 2.07 In terms of design, whilst the 2018 scheme principally retained the existing front elevational character, the latest proposals remodel the building such that it is more in keeping with other properties nearby. The applicant has submitted the following illustrative CGI image. Note that the Free Church is not visible in this view due to its significant setback from the street frontage.

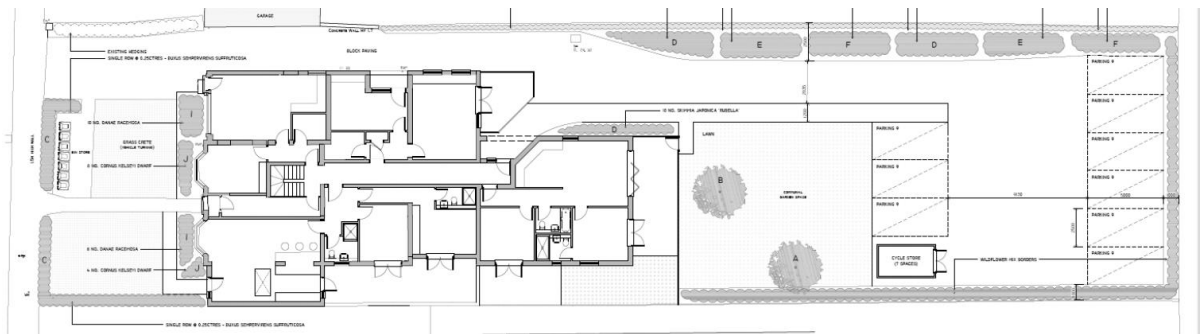


2.08 To assist Members in assessing the latest 2020 application against the previous 2018 approval, the proposed site layout and relevant elevations follow, set alongside the previously approved scheme.

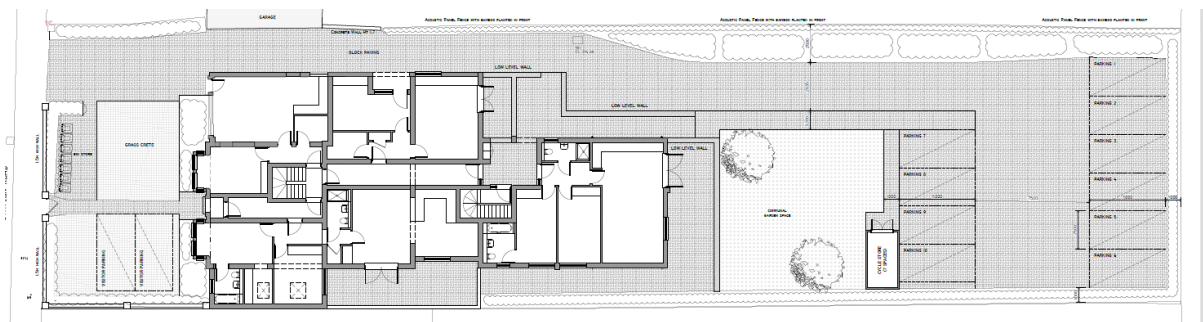
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## Site Layout (NTS)

### 2018 Permission



### 2020 Application



## Street Scene

### 2018



### 2020



Front Elevation



PROPOSED FRONT ELEVATION  
1:100

2018

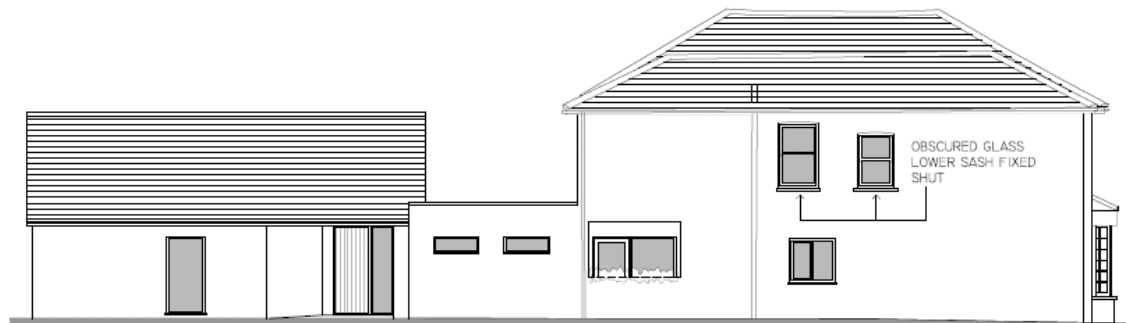


PROPOSED FRONT ELEVATION  
1:100

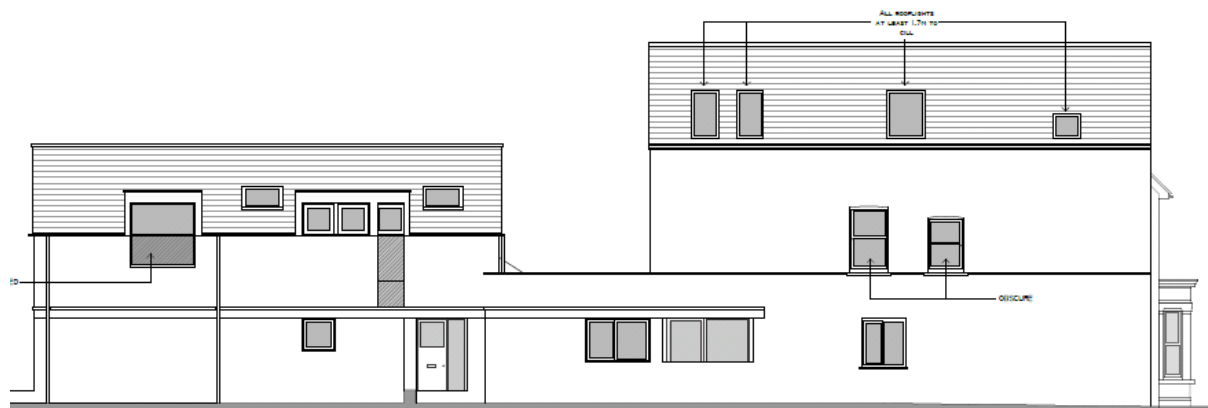
2020

### Side Elevation Facing The Yews

2018



2020



### **3. POLICY AND OTHER CONSIDERATIONS**

#### Maidstone Borough Local Plan 2017

- SS1 Spatial Strategy
- SP5/SP10 Staplehurst RSC
- SP18/DM4 Heritage
- DM1 Good Design
- DM5 Brownfield Land
- DM9 Residential Development
- DM23 Car Parking
- DM21/DM23 Traffic and parking Considerations

#### Staplehurst Neighbourhood Plan 2016(20)

- Vision 1 – Maintaining and enhancing the rural character of Staplehurst
- Vision 2 & H3 – Contributing to mixed communities
- Vision 4 – Using land efficiently
- Vision 5 – Respecting the built environment
- Vision 6, PW4, H1– Contextual design

National Planning Policy Framework (NPPF) / National Planning Practice Guidance (NPPG)

- Insert para references
- Sustainable development
- Efficient use of land
- Mixed communities
- Planning positively

#### 4. LOCAL REPRESENTATIONS

**Local Residents:**



4.01 Representations have been received from 8 local residents raising the following (summarised) issues, which are considered within the 'assessment' section below.

- Out of character with village
- Inadequate parking and access
- Increased traffic and parking
- Risk to pedestrians
- Loss of amenity through noise
- Poor design
- Overlooking and loss of privacy
- Overshadowing
- Inadequate amenity for future occupiers

4.02 In addition the neighbouring Staplehurst Free Church has objected on the grounds of:

- Over-intensification of the site
- Parking from church users will limit access visibility

4.03 The following matters were raised by residents, but are not material planning considerations and therefore cannot be taken into account in the determination of this application.

- Impact on shared drain
- Potential presence of wells
- The application is for financial gain
- Application submitted during lockdown
- Repeat planning submissions
- The fact that objections to the previous invalid application were removed from website

## **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)

### Staplehurst Parish Council

- 5.01 Overdevelopment, harm to character of street, out of character with predominant family home nature of area, inadequate parking and access, noise impact from driveways on neighbours, lack of biodiversity gain, inadequate waste provision, loss of neighbouring amenity

### Kent Police

- 5.02 Advice engagement with Secure by Design principles

### Southern Water

- 5.03 Recommend seeking advice re building on or close to sewers. (SW note sewer runs under tarmac access and parking)

### MBC Environmental Health

- 5.04 No objection. Seek EV charging and conditions to manage internal noise levels.

### KCC Highways

- 5.05 No objection on highways grounds (access and parking) subject to a construction site management condition.

## **6. APPRAISAL**

### **Main Issues**

- 6.01 The key issues for consideration relate to:

- The Principle of Development
- Character and Appearance
- Residential Amenity
- Traffic and Parking

### **The Principle of Development**

- 6.02 The principle of development, that is, the use of the site to accommodate an apartment-led scheme, was established within the 2018 permission; which was considered under the same policy framework as the current application.
- 6.03 The site is sustainably located, midway between the station area and emerging retail facilities to the north and the village 'heart' to the south.

- 6.04 The principle of optimising brownfield land complies with the NPPF and the development plan, subject to other considerations such as transport and amenity.
- 6.05 Whilst the Parish Council refer to the area being predominantly family homes, in terms of the principle of providing smaller dwelling types, both the NPPF and the development plan seek to provide a range of housing types to meet needs. Policy H3 of the Neighbourhood Plan (SNP) seeks to ensure the mix of new housing responds to local needs and local demands in terms of prices, sizes and tenures and in doing so to provide a range of appropriate tenures and sizes of new properties to meet local needs and demands. In doing so the SNP recognises the need to provide for smaller units, for example, to be built within walking distance of the station. The SNP continues to state that such housing types may be suitable for young professionals who have grown up in Staplehurst, who now need regular access to London but wish to live in affordable accommodation within their home village.
- 6.06 Similarly, Policy SP19/1 of the MBLP seeks a range of housing sizes and types to meet the varied needs of the population. It is therefore considered that the provision of 1 and 2-bed apartments would respond positively to the objectives of both the MBLP and the SNP.
- 6.07 With a net gain of 9 units and a total floorspace below the 1,000 sq.m threshold, the scheme is not required to provide affordable housing under Policy SP20. Nevertheless, a range of small units will provide market homes at the lower end of the local price ranges.

### **Character and Appearance**

- 6.08 As identified above, the existing building is not considered to be of such merit that it justifies retention in an unaltered form. Whilst the 2018 permission focussed upon the retention of the existing character, this latest proposal would adopt a different form, but one that, as illustrated in the street scene and CGI above, reflects local character and in the view of Officers is of a more attractive appearance in terms of the streetscape than the previous approval, ie, that compared to the 2018 approval, it is an improvement to the street scene and character of the area.
- 6.09 Whilst the building's height is increased, the additional floor is accommodated within a traditional roofscape in a manner not dissimilar to a number of existing properties in the vicinity, buildings which contribute to the quality of the Station Road Character Area as identified in the SNP
- 6.10 At 5.2 the SNP states that 'new housing should be influenced by the traditional character and style of the village, referencing the local context through high quality materials and styles appropriate to the place'. HOUSING THEME (Policy Code H) of the SNP seeks to *"..... ensure that new housing designs are high quality and respond appropriately to the Kentish context"*, whilst SNP POLICY H1 states that *" the design of new housing developments should be principally informed by the traditional form, layout, character and style of the village's vernacular architecture"* and that *"....new housing development must be shaped and influenced by the traditional character and style of the village"*.
- 6.11 In terms of the street scene and the character of the area, it is considered that the proposed design responds positively to the qualitative requirements of Local Plan Policy DM1 and the objectives of the Neighbourhood Plan, which is centred around new development referencing local context and demonstrating the use of high quality materials and styles appropriate to the place.'



- 6.12 Compared to the 2018 permission, the massing of the rear annex of the development is increased, with a greater depth and increased height. Glimpses of the rear annex will be visible across the car park of the adjacent Church, however, this element will not be prominent and in the context of the significant rear depth of the church and backland development to the north it is not considered that it would adversely affect the character of the street scene.
- 6.13 In summary, it is considered that the latest proposals represent a contextually-led approach and will have a positive impact upon the character of the area.

### **Residential Amenity**

- 6.14 In terms of future occupiers of the development, it is considered that, overall, a good quality of amenity would be achieved. Whilst some of the already approved units fall slightly below national internal spaces standards as they are treated as 2-person units, the new units and others within the development exceed the standard, some by a considerable margin. The rear ground floor units have some dedicated external amenity and the rear garden is considered to be of a good useable size.
- 6.15 With regard to the impacts upon neighbouring amenity, the principle considerations are :
- Overlooking and privacy
  - Noise and disturbance
  - Loss of natural light or overshadowing
- 6.16 The locations of concerned neighbours are shown on the plan at paragraph 4 above. The properties to the rear in 25 and 27 Hurst Close are some distance from the new build elements. The main rear wall is circa 80m from their own rear elevation and the closest part of the proposed annex circa 64m. At this distance it is not considered that any harmful overlooking would occur. The principle of the rear parking court was established in the 2018 approval and the provision of one additional parking space, from 9 to 10, is not considered to be likely to lead to any material increased impact in terms of noise and disruption.
- 6.17 Members should also note that the rear area was and could be used for vehicle movements associated with the historic commercial use.
- 6.18 One neighbour immediately facing across Station Road and one circa 100m to the north east object. Having regard to the positive impact upon the street scene, I do not consider that their visual amenity would be harmed. Due to the separation distance across Station Road I do not consider that any loss of light would be experienced.
- 6.19 Whilst the scheme will provide three additional parking spaces compared to that approved, having regard to the intervening traffic conditions on Station Road, I do not consider that the additional movements would result in undue noise or disturbance.
- 6.20 We then turn to assess the impact upon The Yews, which borders the site to the north. This is a two storey house with accommodation in the roof. The house is set off the boundary by the width of a single garage.
- 6.21 The existing relationship between the properties is shown below. The Yews has a number of windows facing to the rear and across towards the application site. It has a patio area to the rear of the garage and the garden beyond. The application

building has a number of existing windows facing towards The Yews, the use of which are not under planning control.

North Facing Elevation of Application Site

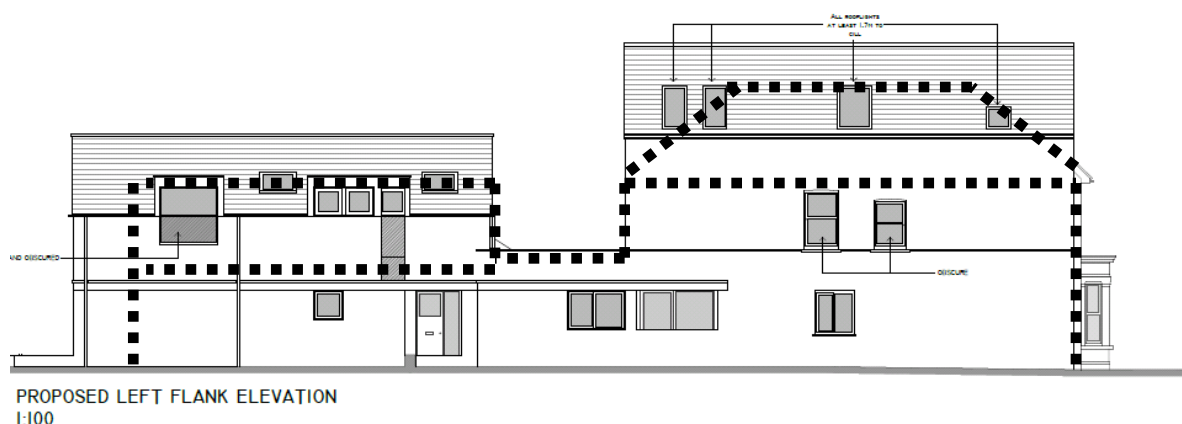


The Site



The Yews

- 6.22 Firstly, in considering the change in the rear site layout, the principal change is the addition of one further parking space and the associated increase in vehicle movements and pedestrians. The access driveway remains as per that approved by Committee in 2018, together with the proposed acoustic fence and landscape buffer adjacent to the rear garden of The Yews. It is not considered that an increase in vehicular activity from 9 to 10 cars would represent a level of disruption that would justify refusal of the latest scheme.
- 6.23 The two visitor parking spaces to the front are also a net addition when compared to the 2018 scheme, however, the front of the property already has parking for two vehicles associated with the previous use. Front garden parking is characteristic of the area and having regard to the existing noise levels from passing traffic and the established access to the rear, it is not considered that the use of these two visitor spaces would lead to a loss of amenity.
- 6.24 It is noted that the EHO raises no objection in terms of potential disturbance from traffic or pedestrian activity.
- 6.25 We then turn to consider the potential impact of the proposed massing, to which there are two considerations; the increased height and mass of the main house and the increased height and depth of the rear 'annex'.
- 6.26 The diagram below shows the flank elevation as now proposed, with the 'approximate' outline of the previously approved scheme shown dashed.



- 6.27 In terms of the main house the eaves increase in height from circa 5.5 metres to 7 metres and the ridge from 8.25 to 9.75 metres, both circa 1.5 metres. The front and rear building lines are unchanged as this represents the existing building footprint. The Yews does not have any windows in the gable facing the main house, but does have a second floor dormer and ground floor patio. Due to the height of the dormers they will benefit from natural light from above and around the proposal, so I consider that the increased bulk will not result in a material loss of natural light to windows to habitable rooms.
- 6.28 The rear part of the neighbour's patio will inevitably experience an increased sense of enclosure and a reduction in light as a result of the increased massing, however, the patio forms part of a large garden over which it enjoys views and as such, any impacts on this area would not be so significant as to justify refusal.
- 6.29 Concerns have been raised over the increase in size of the rear annex, the depth of which is increased by 2 metres (previously approved 14.5m), with the height increased at eaves to 4.5 metres (approved 2.5m) and ridge height of 7 metres (approved 5.5m).
- 6.30 The annex is set off the boundary by circa 7.5 metres and at its closest, circa 16 metres from the neighbour's nearest habitable room window. As such it falls well below the 45 degree angle and would not lead to any material loss of natural light.
- 6.31 Whilst there is an increase in mass in both of the proposed new build elements, it is not of a scale that would result in an overbearing impact and whilst the application property extends to the rear, the outlook of The Yews is clearly principally down its own garden. Members should note that the Free Church extends 40 metres to the rear of its residential neighbours and so the principle of some built elements to the rear is established by this and the 2018 approval.
- 6.32 Finally, turning to potential overlooking. On the main flank of the building, two first floor windows currently have unrestricted glazing and can look towards The Yews. These will be obscured as part of this scheme, resulting in a net benefit. The new rooflights at second floor will have a cil level of not less than 1.7metres and due to their angle, will not permit views down to the neighbours garden.
- 6.33 In terms of the annex, two rooflights will serve a bathroom and provide roof level lighting with no risk of overlooking. Small dormers will provide additional lighting to the kitchen and bedroom, but will again be obscured up to a height that prevents overlooking. Members should note that the main living area and larger bedroom are designed to face away from the neighbour. It is therefore considered that there would be no loss of privacy to The Yews.

- 6.34 On the basis that I consider there would be no adverse impact to the immediate neighbour, nor do I consider that the other neighbours further to the north would be adversely affected.

### **Traffic and Parking**

- 6.35 Kent County Council Highways have commented on the application and do not raise any objection to access or parking arrangements. As detailed above, this is an established driveway that has served a mixed use property. The net increase of three spaces and the associated movements do not generate impacts sufficient to object in terms of highway safety.
- 6.36 This section of Station Road is heavily trafficked, particularly during peak hours, but residential driveways accessing directly onto the Road is a common feature amongst the majority of properties. The scheme is designed to allow cars to enter and leave in forward gear. As with neighbours, service vehicles would serve from the road.
- 6.37 It is noted that the adjacent Church has 19 parking spaces and no objection was raised on highways grounds. It is not considered that the juxtaposition of the Church and this scheme would result in adverse conditions.

### **Other Matters**

- 6.38 The applicant has agreed to conditions requiring EV Charging, plus bird bat and bee habitats. Officers also consider that as the rear annex is relatively discreet, it is appropriate to seek PV installation and this is again covered by condition.
- 6.39 As previously identified there are no heritage assets or protected trees within or adjacent to the application site. The closest listed building is Sorrento (GII), some 70m north east, on the western, opposite side of Station Road. There is no material visual relationship between the two and in the context of the limited scale of change in appearance, it is not considered that the application site affects the setting of the listed building.
- 6.40 A number of residents have raised concerns regarding the submission of several schemes over time and the apparent removal of objections from the website. Officers advise that the previous application 20/501321/FULL was treated as invalid and re-submitted in the present form at the request of the Council as the previous application could not be determined in the form submitted. As the application was returned as invalid (not withdrawn), it was removed from the website together with all documents (and any comments made prior to this).
- 6.41 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.42 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 Having regard to the above, it is recommended that planning permission be granted subject to the conditions listed below.

## **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 this 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/drawings: PO4 Floor / roof plans, PO5 Elevations, PO6 Site plan.  
  
Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.
- 3 Before the development hereby permitted is first occupied, the first floor windows opening on the northern elevation of the existing building and the new windows in the rear annex at first floor level (as shown on drawing number P05) shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such:  
  
Reason: To safeguard the privacy of existing and prospective occupiers.
- 4 No development above slab level on the extensions hereby permitted shall take place until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter.  
  
Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of the development.
- 5 The development hereby approved shall not commence above slab level until details of a scheme for the provision of accessible electric vehicle charging points, including a programme for their installation, maintenance and management, shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points as approved shall be installed prior to occupation of the

building hereby permitted and shall thereafter be retained and maintained in accordance with the approved details.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with the NPPF.

- 6 The development hereby approved shall not commence above slab level until, written details of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

- 7 Notwithstanding the details as shown on drawing number P06 the development shall not be occupied until details of hard and soft landscape works which shall include the use of permeable paving upon the access and hardstanding parking areas have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of native species planting and habitat for birds, bees and bats. The approved landscaping shall be planted in the first available planting season. If any part of the approved native planting becomes dead, dying or diseased within 5 years of planting it shall be replaced with a similar species of a size to be agreed in writing with the Local Planning Authority and shall be retained at all times in accordance with the terms of this condition. The approved hardstanding shall be carried out in accordance with the approved details before first occupation of the apartment and retained thereafter;

Reason: To ensure satisfactory appearance to the development and in the interest of sustainable water drainage.

- 8 No development shall take place until details of on site parking and turning for all construction traffic have been submitted to and approved in writing by the local planning authority. The details shall be implemented before construction commences and retained until the completion of the construction.

Reason: To ensure adequate on site parking and turning provision is made for construction traffic In the interest of highway safety and the free flow of traffic.

- 9 Prior to the occupation of the apartments, details of an acoustic fencing along the northern boundary of the site to protect the neighbouring site against transmission of airborne sound shall be submitted to and approved in writing by the local planning authority and the approved scheme shall be completed before first occupation of any dwelling and shall be maintained thereafter.

Reason: To mitigate the effects of potential noise nuisance.

- 10 Any external lighting shall be in accordance with details that have been previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: To protect the night-time rural environment in the interest of visual amenity.

Reason: In the interests of visual amenity.

- 11 The development hereby approved shall not commence above slab level until, details of satisfactory facilities for the storage of refuse on the site have been

submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the building(s) or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

- 12 No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the north facing wall(s) of the building hereby permitted;

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- 12 The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England ) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

## **INFORMATIVES**

- 1) In the interest of ensuring sufficient foul capacity is provided to the development, prior to the commencement of development, an application shall be made to the statutory undertaker under s106 of the Water Industry Act 1991 requesting a connection to the public sewer.
- 2) The applicant is advised that in order to avoid nuisance to neighbours they should seek to only use plant and machinery used for demolition and construction between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
- 3) The applicant is advised that in order to avoid nuisance to neighbours they should only seek to allow vehicles to arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Case Officer: Austin Mackie

20 m  
100 ft



20/502133/FULL - Oaklands, Lenham Road, Headcorn, Kent, TN27 9LE

Scale: 1:1250

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<b>REFERENCE NO</b> 20/502133/FULL (Plot 1)		
<b>APPLICATION PROPOSAL</b> Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).		
<b>ADDRESS</b> Oaklands (previously known as 1 Martins Gardens) Lenham Road Headcorn Ashford Kent TN27 9LE		
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The plot is at the south-western end of the six plots.</p> <p>The current application for one additional mobile home and one touring caravan represents the same number of caravans as was previously approved in 2019. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan proposed in this application, together with the removal of existing caravans in the rear part of the site and implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer, will not have a significant and unacceptable harmful visual and landscape impact in the locality.</p> <p>The current plot extends significantly into the designated area of Ancient Woodland to the rear of the plot. The proposed reduction in the depth of the current plot will allow the rear part of the existing site which forms part of the area designated as Ancient Woodland to be landscaped with native species tree and hedgerow planting which will provide some mitigation for the harm which has taken place. Full details and implementation of the landscaping/planting scheme can be secured by planning condition.</p> <p>The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).</p> <p>The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <p>Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01</p>		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Ulcombe	<b>APPLICANT</b> Mr James Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 14/07/20

### **Relevant Planning History**

- History for current application site Oaklands (previously known as 1 Martins Gardens). 18/506270/FULL Application for one additional mobile home and one additional tourer. (Resubmission of 18/502176/FULL) (Part retrospective) approved 12.08.2019 (committee decision)

18/502176/FULL Proposed siting of 3 additional mobile homes and 3 touring caravans at 1 Martins Gardens. Refused 12.10.2018 for the following reasons:

- 1) *'In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character, appearance and landscape of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018).'*
- 2) *'The access constructed to Lenham Road and the associated gates, brick piers and timber boarded front boundary fencing is visually incongruous and intrusive in the roadside views and is harmful to the rural character of the road and the visual amenity along the road generally, contrary to the aims and requirements of policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Borough Local Plan (Adopted October 2017) and Government guidance in the NPPF (2018).'*
- 3) *'The intensification of the use of the site for the stationing of mobile homes has resulted in the significant encroachment of the use into a designated area of Ancient Woodland and the significant loss of trees and soils from the area of Ancient Woodland and trees and hedgerows from the frontage to Lenham Road and the front part of the south-western side boundary to the detriment of the visual amenity and landscape of the open countryside location which forms part of Low Weald Landscape of Local Value and the ecological and wildlife interests of the site, contrary to policy DM3 of the Maidstone Borough Local Plan (Adopted 2017) and Government guidance in the NPPF (2018).'*

MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

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

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

- **Adjacent plots**

Decisions on the following planning applications for adjacent plots of land are currently pending. There are current applications for 4 out of the 6 plots with no applications submitted for Plot 2 (1A Martins Gardens) or Plot 5 (3 Martins Gardens/5 Martins Gardens). The planning history for these adjacent sites is provided in the relevant reports.

**Plot 1 The current application relates to Plot 1 which is the subject of this report**  
Oaklands/1 Martins Gardens- 20/502133/Full Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).

**Plot 2**

1A Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 3**

1B Martins Gardens - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).

**Plot 4**

2 Martins Gardens 20/502135/FULL Siting of 2 mobile homes and 2 tourers (Retrospective).

**Plot 5**

3 Martins Gardens/5 Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 6**

4 Martins Gardens/6 Martins Gardens - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective).

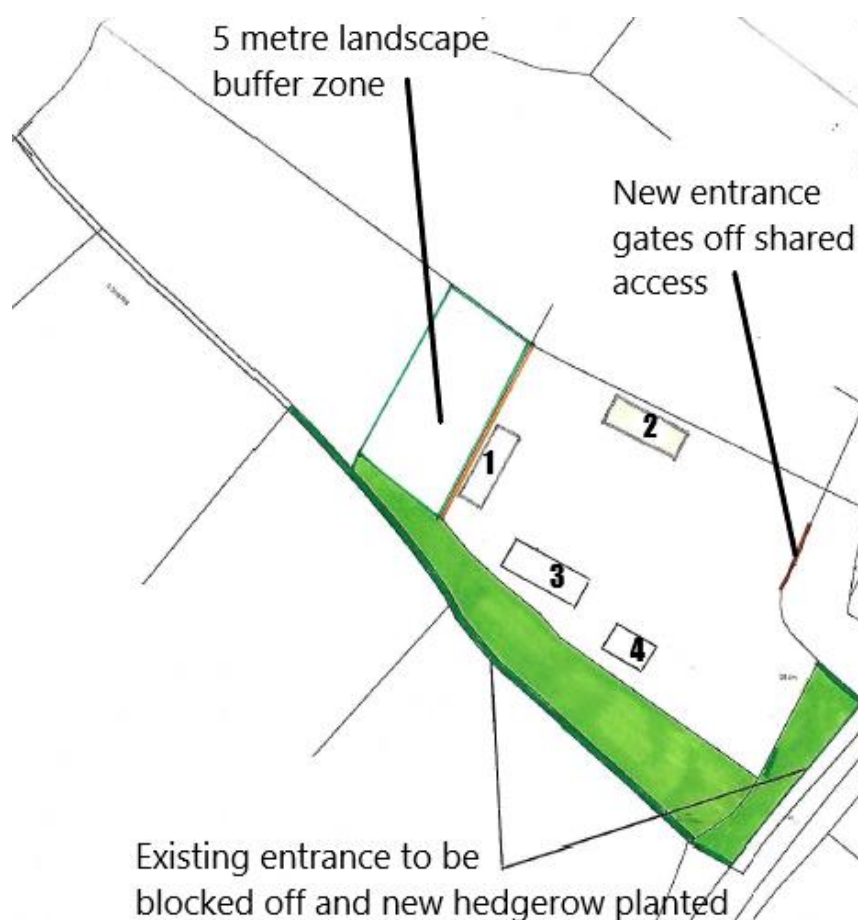
**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 The site is located off the north-western side of Lenham Road and comprises the south-western most plot of a row of Gypsy sites running north-eastwards from the site along Lenham Road. Unlike the five neighbouring plots to the north-east which are accessed from a shared accessway off Lenham Road, the application plot has a frontage and separate access to Lenham Road.
- 1.02 The plot access comprising 2m approx. high brick piers with splayed brick walls either side and timber gates is currently unauthorised from a planning point of view. Beyond the rear (north-western) part of the site is a group of trees and a pond. The boundaries of the site are enclosed by 2m approx. high timber fencing and there is a line of trees along the south-western side boundary. Beyond the trees and pond to the rear of the site and along the south-western boundary is open field.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six plots. To the rear of the plots at the south-western end of the row of Gypsy sites, including the rear of the current application plot, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The rear part of the current application plot extends into the designated area of Ancient Woodland.

- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan. The site is also within a KCC Minerals Safeguarding Area.
- 1.05 The 6 plots that make up Martins Gardens are within the parish of Ulcombe. The parish boundary with Headcorn, wraps around the 6 plots running along Lenham Road to the south east and the side boundary of The Oaklands to the south west.
- 1.06 The plot referred to in the current application as The Oaklands /1 Martins Gardens did benefit from planning permission granted by committee in August 2019 (18/506270/FULL) for one additional mobile home and one additional tourer. This decision last year was preceded by an allowed appeal in July 2009 under ENF/10155 (Enforcement notice A). The allowed appeal permitted the stationing of 1 static caravan, 1 touring caravan and 1 utility room.

**Layout as approved under application 18/506270/FULL**



- 1. Existing retained mobile**  
**2. Existing retained utility block**

- 3. Proposed additional mobile**  
**4. Proposed additional tourer**

**2. PROPOSAL**

- 2.01 The current application seeks planning permission for same number of caravans as previously approved (one additional mobile home and one additional touring caravan). The submitted plan shows the additional mobile home and tourer on a slightly different location on the site.

- 2.02 The Planning Statement submitted in support of the application states that the mobile home will be occupied by the applicant's eldest son and his girlfriend who have a small child and now need a stable base.
- 2.03 The Planning Statement further states that although the family member has been travelling and using the roadside to stop in, he now needs a stable base to bring up his child and enable the child to get an education.
- 2.04 The Planning Statement states that travelling gypsies are not accepted in schools as they don't have addresses and without a permanent base for the applicant's family member's girlfriend and child, the child will not be able to be registered anywhere.
- 2.05 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The previously approved application in August 2019 involved the removal of the direct access from Lenham Road to the application site with access provided from the existing internal service road. The current application seeks the retention of the existing access arrangements and the two existing access points. A 5m wide native species landscaped buffer zone is shown between the caravans and the ancient woodland.
- 2.06 The plan below shows the caravans to be removed, retained and the positions of a proposed mobile home and tourer as part of the current application. The previously approved proposal for this site included on the front half of the site, 1 retained mobile, 1 retained utility block and an additional mobile and an additional tourer. The current proposal includes the same number and type of development with the proposed mobile (replacing a mobile removed from the back of the site) and tourer in slightly different locations.
- 2.07 A planning condition attached to the earlier planning permission (18/506273/FULL) was drafted so that the approval would lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.08 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements the submission was not chased up.
- 2.09 The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506273/FULL) is now incapable of implementation. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.
- 2.10 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared.
- 2.11 The condition requires additional detail on the, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone

**Current application - caravans to be removed, retained caravans and replacement/proposed caravans.**



- 1. Removed existing mobile
- 2. Removed existing mobile
- 3. Removed existing mobile

- 4. Retained existing utility
- 5. Retained existing mobile
- 6. Proposed tourer
- 7. Proposed mobile

- 2.12 including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.

**3. POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites (PPTS) (2015)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- Landscape Character Assessment (2012 – amended 2013)
- Landscape Character Assessment Supplement (2012)
- KCC Minerals Plan
- Gypsy and Traveller and Travelling Showpeople Accommodation Assessment January 2012
- Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- Draft Headcorn Neighbourhood Plan (see note below)

*NB: The Final Examiner's Report on the Headcorn Neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the neighbourhood plan should not proceed to a local referendum. The neighbourhood plan has since been withdrawn.*

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents**

- 4.01 No response from local residents.

##### **Shenley Farms (Aviation) Limited**

- 4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

#### **5. CONSULTATIONS**

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

##### **Ulcombe Parish Council**

- 5.01 Objection. Making the following comments:

- The Parish Council are "astonished and unimpressed" at having to revisit Martins Gardens where the positions and number of caravans are constantly changing.
- The Parish Council are "incredibly disappointed that enforcement notices were not served, and that the applicants have been able to circumvent the threat of enforcement by putting in almost identical planning applications to those submitted in December 2018".
- It must be determined whether the applicant is a gypsy or traveller in planning terms.
- Evidence that the applicant is leading a "nomadic habit of life" needs to be provided.
- There is no "unmet or proven need" for gypsy and traveller sites.
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches.
- There is a high proportion of gypsy and travellers in Ulcombe
- Existing countryside protection policies should be applied in the Low Weald Landscape of Local Value.
- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.
- long suffering residents of Lenham Road have consistently complained about the very high levels of noise, and the intrusive light pollution from Martins Gardens. This is affecting the health and quality of life of these residents, and is contrary to the NPPF 2019, paragraph 180, which states that planning policies and decisions should take into account the potential sensitivity of the site or the wider impacts.
- The conditions laid down by the planning committee have been blatantly and cynically ignored, surely it is time for MBC to make a stand and refuse permission on this site.

##### **Headcorn Parish Council (Neighbouring Parish Council)**

- 5.02 Objection, making the following comments:

- The committee expressed complete dismay that we are faced with further retrospective applications for the above sites. Very similar applications were considered and approved by MBC in August 2019.
- Despite requests, no enforcement action was taken in relation to the site delivery planning condition that was attached to earlier approvals.

- The gypsy/traveller status of the applicant
- Gypsy and Traveler housing need verses supply.
- Development in the Open Countryside and paragraph 25 of the PPTS which states that Local Authorities should strictly limit Traveler site development in open countryside.
- Particular attention drawn to the fact that the area concerned was once 80% ancient woodland and ponds and due regard must be paid to reinstating what has been lost
- Poor social cohesion with the villages settled community with many feeling unable to comment on the situation for fear of reprisals.
- Contrary to SS1, SP17, DM1, DM15, and DM30.
- The Committee wish to see these applications refused and referral to planning committee is required.

#### **Kent Highways**

- 5.03 No objection. Recommend informative about highways approvals.

#### **KCC Minerals and Waste Planning Policy Team**

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

#### **Forestry Commission**

- 5.04 No objection raised. Comment that Ancient Woodland is an irreplaceable habitat. The NPPF (para. 175) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

#### **Natural England**

- 5.05 No comment. Referral to standing advice

### **6. APPRAISAL Main Issues**

- 6.01 The key issues for consideration relate to:
- Need for Gypsy sites
  - Supply of Gypsy sites
  - Gypsy Status
  - Personal circumstances
  - Visual and landscape impact
  - Cumulative impacts
  - Design
  - Siting sustainability
  - Residential amenity
  - Parking and highway safety
  - Area of Ancient Woodland and ecological interests
  - Human Rights and Equality



### **Need for Gypsy sites**

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

### **Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.
- 6.05 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

### **Supply of Gypsy sites**

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

### **Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. of pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.

- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by a member of the applicant's close family and their partner who have one young child and who need a stable base.
- 6.14 The Planning Statement states the occupant of the caravan who is a member of the applicant's close family has always led a nomadic life and has travelled with the applicant across the country for work in landscaping and horse dealing. The Planning Statement further comments that they always attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold (Gloucestershire) where they also seek work and deal in horses. The occupier of the caravan has no intention of giving up this life but needs his child to be settled.
- 6.15 The plot forms part of an established Gypsy and Traveller site at Martins Gardens and the proposed mobile home is to accommodate a family member of the established occupiers of the site, the partner and a young child. A condition is recommended on any grant of planning permission to ensure that the proposed mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).
- 6.16 The gypsy status of the occupiers of the caravan were accepted as part of the assessment of the earlier application and there has been no change in circumstances. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

**Personal circumstances**

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

**Visual and landscape impact**

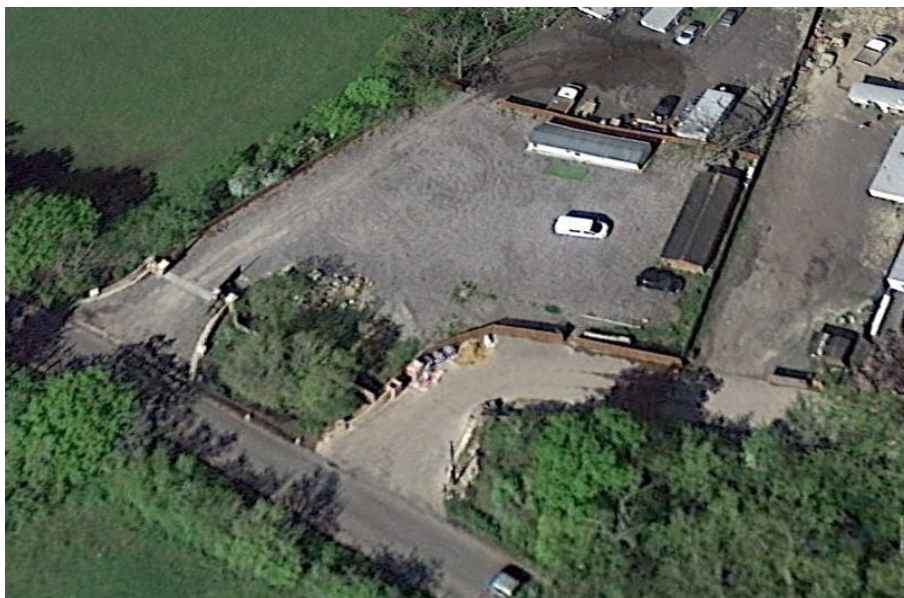
- 6.18 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.19 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.20 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to *"...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads"*; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.21 The plot, in this case, benefits from the planning permission granted on appeal on 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the north-east and south-west. Some of the development on these plots is currently unauthorised.
- 6.22 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.23 The originally permitted plot extends significantly back (north-westwards) from Lenham Road, extending into the area of land designated as Ancient Woodland on the Policies Map to the adopted Local Plan. This resulted in a significant loss of trees and ponds from the woodland area. The applicant in the Planning Statement have said "Any trees that have been lost or fallen has been due to natural deterioration and have not been removed by the applicant for him to live on the site" The applicant also points out that none of the trees in question were the subject of a Tree Preservation Order.

- 6.24 There are currently two vehicular access points from Lenham Road, the first access serves the current application site at Oaklands/1 Martins Gardens, with the second access serving the other 5 plots. The previously approved application in August 2019 involved the removal of the direct access from Lenham Road to the application site with access provided from the existing internal service road.
- 6.25 In contrast to the earlier approval the current application seeks the retention of the existing access arrangements and the two existing access points on to Lenham Road (albeit only one relates to the current application site being considered with the second used to access the other five adjacent plots). The applicant states that the caravans on all 6 plots need to exit through the Oaklands/1 Martins Gardens entrance when leaving the site to be serviced.
- 6.26 Apart from the access, the remaining boundary of the application site fronting Lenham Road is defined by a timber boarded fence set behind what remains of the former more extensive trees and hedgerows to the road frontage. It appears that the fence was installed at the same time as the new entrance and the Council's records also show that this timber boarded fence is likely to be immune from planning enforcement action.
- 6.27 The site forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan and it is considered that the entrance and timber fence results in harm to the visual amenities, landscape and rural character of the area. Notwithstanding this identified harm, the benefits from the current proposal with the removal of the caravans on the northern part of the site and the introduction of a 5m wide native species landscaped buffer zone between the caravans and the ancient woodland outweigh this identified negative visual harm. The proposal does not conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

**Cumulative impacts**

- 6.28 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure.
- 6.29 Adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.30 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the five neighbouring plots in Martins Gardens to the north-east of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area, particularly when viewed from Lenham Road in the case of the plots at the south-western end of Martins Gardens. Plots at the north-eastern end of Martins Gardens are viewed from the public footpath running north-west from Lenham Road adjacent to the plot at the north-eastern end of the row of six gypsy sites.

**Retained access arrangements (left hand side of the photo)**



- 6.31 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but with the implementation of the landscape buffer and removal of caravans any additional impact will be mitigated. The combined cumulative effect in terms of impact on the countryside and landscape would not be in conflict with this aim of Local Plan Policy DM15. The visual impact of the proposed caravans was considered by officers and members in the assessment of the earlier planning application and found to be acceptable.

**Design**

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

Use

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

Amount

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

Layout

- 6.35 The proposed site layout is comparable to the layout previously considered acceptable by officers and members in the assessment of the earlier planning application.
- 6.36 The layout is considered acceptable in terms of the relationship between dwellings, internal circulation space and amenity.

Scale

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

**Photograph from the front boundary.**



Landscaping

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

Appearance

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

**Siting sustainability**

- 6.40 Gypsy and traveller sites will almost inevitably be located in countryside locations, and in this case the site is less than 2km from the edge of Headcorn village (to the south-west of the site) with its local services, amenities and public transport links.

- 6.41 Whilst located within part of the open countryside where residents would be reliant on the use of a car, the site is not so far removed from basic services and public transport links as to warrant a refusal of planning permission on grounds of being unsustainable, particularly given the nature of the development and development in the vicinity generally.

**Residential amenity**

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

**Parking and highway safety**

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

**Area of Ancient Woodland and ecological interests**

- 6.49 The land to the rear of the plots at the south-western end of the row of Gypsy and Traveller sites in Martins Gardens, including the rear half of the current plot at The Oaklands, is designated as Ancient Woodland.
- 6.50 The current application involves the removal of three caravans shown as being located in ancient woodland and the depth of the current mobile home plot reduced by around a half with a 5m wide native species landscaped buffer zone planted across the middle of the existing lot to mark the extent of the ancient woodland and to separate the retained and currently proposed caravans from the ancient woodland.



- 6.51 Whilst the proposed reduced depth of the current mobile home plot still encroaches into the 15m buffer zone normally required between the proposed development and the Ancient Woodland, this was the case with the approval considered acceptable by members and officers in terms of the applications considered in 2019. The imposition of the 15 metre buffer would in addition leave little to no developable area on the site.
- 6.52 It is considered that the landscaped 5 metre wide buffer with native species tree and hedgerow planting will provide some mitigation for the harm which has taken place.
- 6.53 The plot is predominantly hardsurfaced and enclosed by close boarded fencing. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site. Any impact on ecological interests at the plot would have already taken place.
- 6.54 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present within the surrounding area. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.

**Relationship of the application site to designated Ancient Woodland  
(Ancient Woodland shown as green hatching)**





- 6.55 The implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home and touring caravan on the current application plot, together with native species landscaping/planting to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

### **Human Rights and Equality**

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

## **7. CONCLUSION**

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

- 7.05 The native species planting proposed will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements can be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).
- 7.06 The proposed additional mobile home is to accommodate a family member of the established occupiers of the Martins Gardens site. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

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

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

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

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

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

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

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

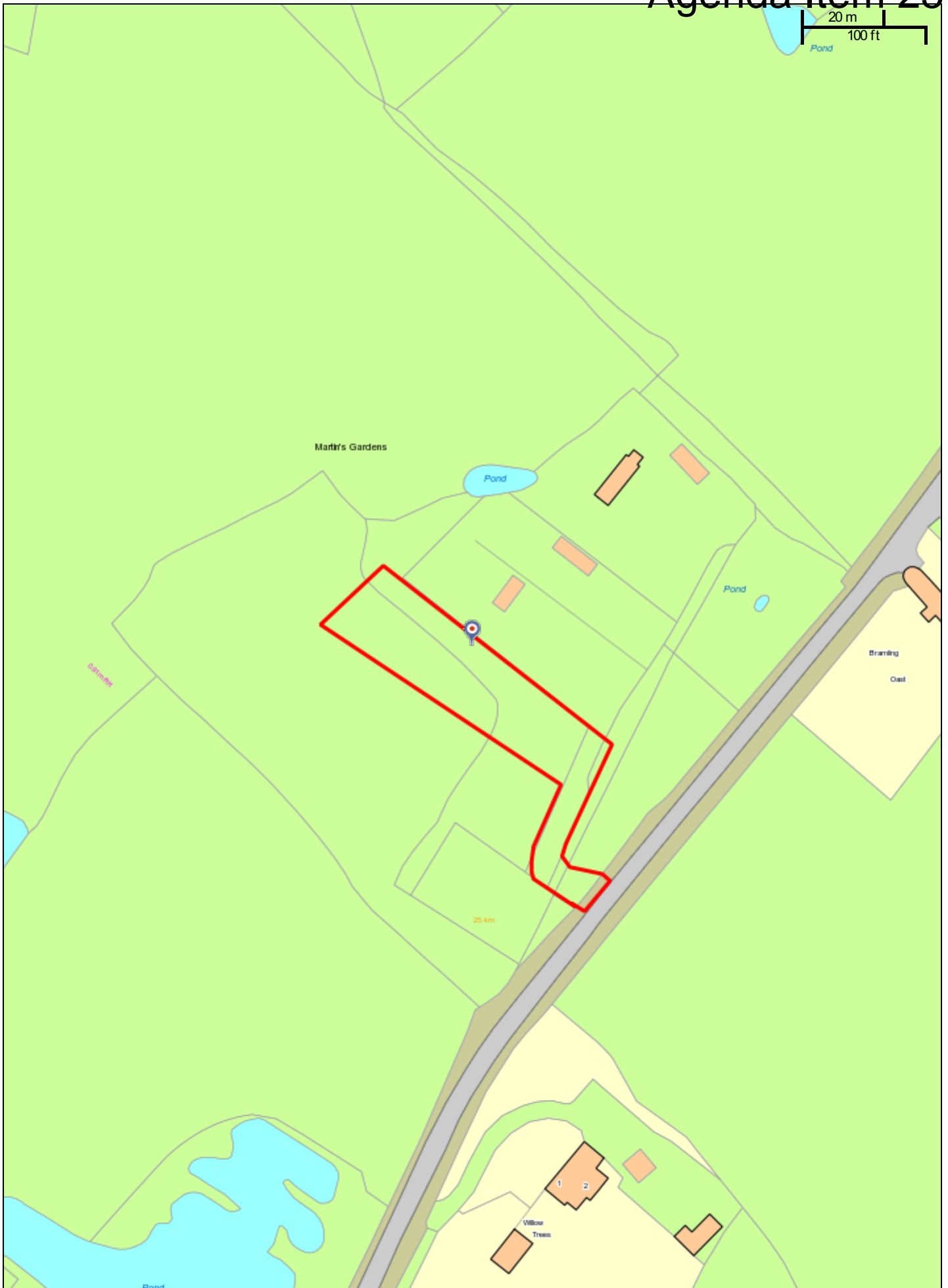
- 7) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

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

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

Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan



20/502134/FULL - 1B Martins Gardens, Lenham Road, Headcorn, Kent, TN27 9LE

Scale: 1:1250

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<b>REFERENCE NO</b> 20/502134/FULL (Plot 3)			
<b>APPLICATION PROPOSAL</b> Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).			
<b>ADDRESS</b> 1B Martins Gardens (previously known as 3 Martins Gardens) Lenham Road Headcorn TN27 9LE			
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The plot is part of an established Gypsy and Traveller site within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised.</p> <p>The plot is well screened from views from Lenham Road by existing trees and hedgerows. A public footpath runs adjacent to the north-eastern boundary of 4 Martins Gardens to the north-east. Whilst the mobile home, touring caravan and utility room would be visible they are distanced from the public footpath and screened by the existing and proposed mobile home development on the adjoining Gypsy and Traveller plots (Plots 4, 5 and 6). As a result, there will not be any significant increased visual impact in views from the public footpath as a result of the mobile home, touring caravan and small utility room.</p> <p>The application shows a native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. The planting of a landscaped buffer will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape and the harm to the area of Ancient Woodland which includes land where caravans will be stationed.</p> <p>In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the previous approval, and the additional mobile home, touring caravan and utility room proposed in this application will not have a significant and unacceptable harmful visual and landscape impact in the locality.</p> <p>A condition is recommended on any grant of planning permission to ensure that the accommodation is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01			
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Ulcombe	<b>COUNCIL</b>	<b>APPLICANT</b> Mr James Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 14/07/20	

### **Relevant Planning History**

- History for current application site 1B Martins Gardens (previously known as 3 Martins Gardens) (Plot 3).  
18/506272/FULL Siting of 1 mobile home, 1 tourer and 1 dayroom. (Part retrospective) approved 12.08.2019 (committee decision)

18/504254/FULL - Proposed siting of a mobile home, touring caravan and a utility room at 3 Martins Gardens. Refused 19.10.18 for the following reasons:

*'In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character and appearance of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018).'*

MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

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

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

- Adjacent plots

Decisions on the following planning applications for adjacent plots of land are currently pending. There are current applications for 4 out of the 6 plots. No applications are submitted for Plot 2 (1A Martins Gardens) or Plot 5 (3 Martins Gardens/5 Martins Gardens). The planning history for these adjacent sites is provided in the relevant reports.

**Plot 1**

Oaklands/1 Martins Gardens- 20/502133/Full - this is the current application site. Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).

**Plot 2**

1A Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 3 – The current application relates to Plot 3 which is the subject of this report**

1B Martins Gardens - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).

**Plot 4**

2 Martins Gardens 20/502135/FULL Siting of 2 mobile homes and 2 tourers (Retrospective).

**Plot 5**

3 Martins Gardens/5 Martins Gardens - No current planning application (Medical reasons have been given for not submitting an application at this time)

**Plot 6**

4 Martins Gardens/6 Martins Gardens - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective).

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

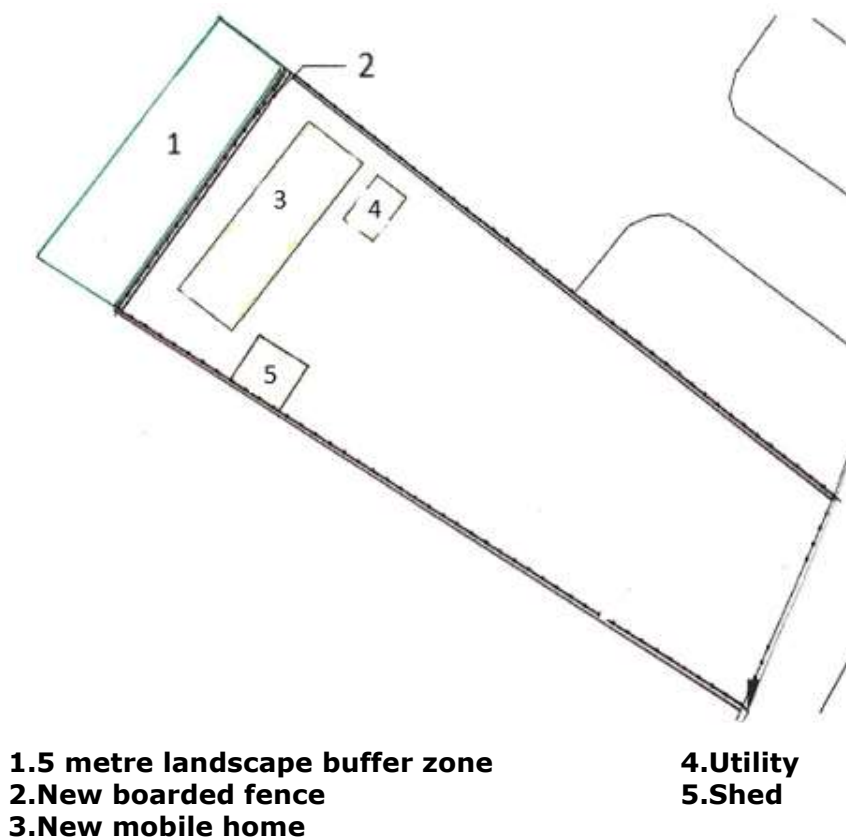
- 1.01 The site is located off the north-western side of Lenham Road and comprises the third plot from the south-western end of a row of six Gypsy sites running along the north-western side of Lenham Road.
- 1.02 The plot is accessed from a shared accessway off Lenham Road which also serves four of the five neighbouring Gypsy sites forming Martins Gardens. The fifth site, The Oaklands, at the south-western end of the row of sites has its own separate access off Lenham Road.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites, including the rear of the current application site, is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The site is within the KCC Minerals Safeguarding Area.
- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan.
- 1.05 The plot referred to in the current application as 1B Martins Gardens (3 Martins Gardens with regards to the Relevant Planning History listed above) does not benefit from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of static/touring caravans. Any mobile homes and touring caravans currently on the plot are unauthorised from a planning point of view.

**2. PROPOSAL**

- 2.01 The current application seeks planning permission for same number of caravans as previously approved (consisting of one mobile home and one touring caravan and a dayroom).
- 2.02 The submitted plan shows the mobile home and tourer on a slightly different location on the site. The current proposal also seeks the removal of an existing mobile home and the construction of a dayroom (7 metres by 3.5 metres, eaves 1.8 metres and ridge 2.1 metres) as set out in the description of the earlier permission. Whilst the proposed dayroom is larger than previously approved (see layout plan for 18/506272/FULL below), in terms of overall floorspace, the current plans also show the removal of an existing shed from the site.
- 2.03 The Planning Statement submitted in support of the application states that the mobile home will be occupied by a family member and his partner who have a young child and who now needs a stable base for health reasons.

- 2.04 The Planning Statement further states that although the family member and his partner have been travelling and using the roadside to stop in, it is not safe for them both to continue to be continuous travelling gypsies for health reasons and the stable base will allow access to health care treatment and the new child to enrol in main stream school and receive an education in the future.
- 2.05 The currently unauthorised mobile home plot extends to a greater depth back from Lenham Road than the more restricted depth of plot (38m approx.) to which this current application relates. In addition to the proposed reduction in the depth of the current unauthorised mobile home plot, it is proposed to provide a 5m wide native species landscaped buffer to the rear of the plot which forms part of an area designated as Ancient Woodland.
- 2.06 The southern boundary of the proposed buffer zone (annotated as a new boarded fence on the plan below) was a distance of 28 metres south of the northern site boundary as part of the previously approved application. In a change from the previously approved proposal, the submitted plans show the southern boundary of the proposed buffer zone relocated and it is now 6 metres from the northern site boundary.

**Previously approved proposed site layout under application 18/506272/FULL**

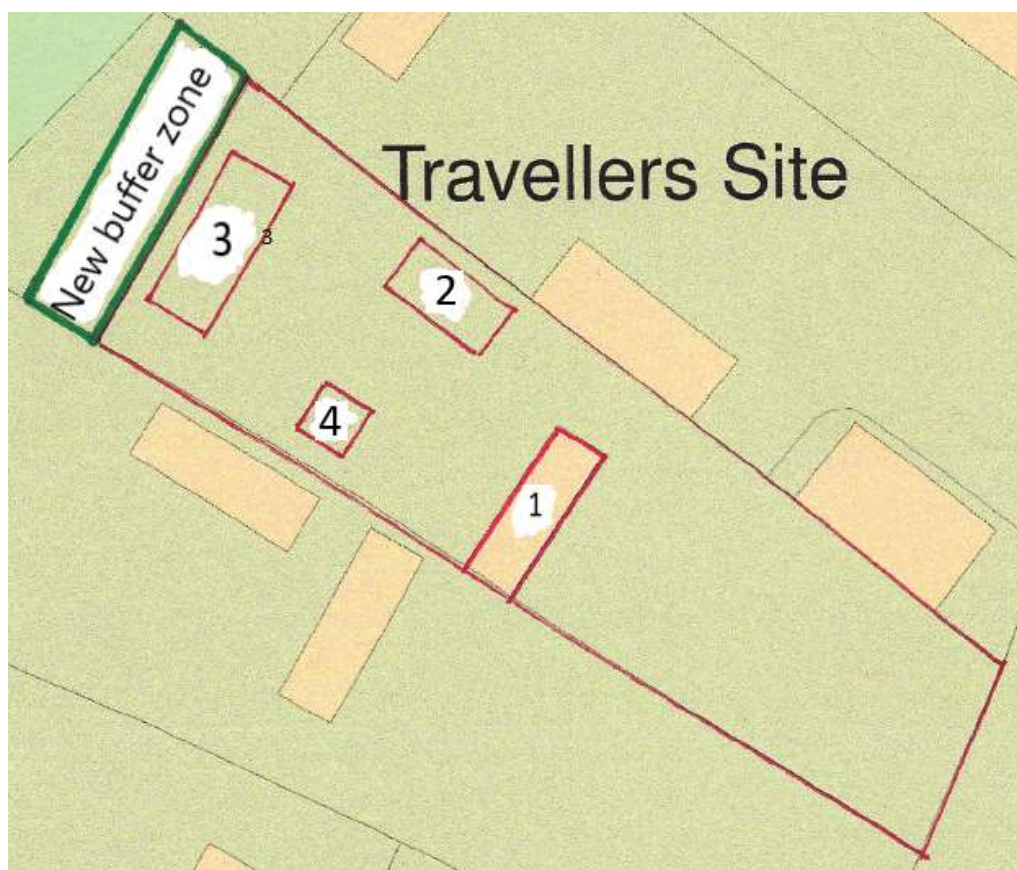


- 2.07 The current application is a revised submission following the grant of planning permission on the 19.10.18 under application reference 18/504254/FULL for the proposed siting of a mobile home, touring caravan (not shown on the plan above) and a utility room on the plot. A planning condition attached to this permission stated that no more than 2 caravans are stationed on the land of which no more than one shall be a static caravan or mobile home. The proposal also included the retention of the shed on the site.



- 2.08 The differences between the approved proposal and the current application include the relocation of the buffer zone northwards increasing the useable area of the site. A larger dayroom/utility building is proposed with the removal of the shed. The previously approved layout is shown above, with the following plan showing the layout currently proposed with the removal of the existing dayroom annotated as 1 on the plan below. The approval of the previous layout that was considered acceptable by both officers and members. This earlier decision is a material factor in considering the current application and no reason has been found to reach different conclusions.

**Current application - caravans to be removed and proposed caravans.**



**1. Removed existing mobile**  
**2. Proposed dayroom**

**3. Proposed mobile**  
**4. Proposed tourer**

- 2.09 A planning condition attached to the earlier planning permission (18/506272/FULL) was drafted so that the approval would lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.10 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements the submission was not chased up.
- 2.11 The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506272/FULL) has now lapsed. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.

- 2.12 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared. The condition requires additional detail on the means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.

### **3. POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites (PPTS) (2015)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- Landscape Character Assessment (2012 – amended 2013)
- Landscape Character Assessment Supplement (2012)
- KCC Minerals Plan
- Gypsy and Traveller and Travelling Showpeople Accommodation Assessment January 2012
- Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)
- Draft Headcorn Neighbourhood Plan (see note below)

*NB: The Final Examiner's Report on the Headcorn Neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the neighbourhood plan should not proceed to a local referendum. The neighbourhood plan has since been withdrawn.*

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents**

- 4.01 No response from local residents.

#### **Shenley Farms (Aviation) Limited**

- 4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

### **5. CONSULTATIONS**

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

#### **Ulcombe Parish Council**

- 5.01 Objection. Making the following comments:
- The Parish Council are "astonished and unimpressed" at having to revisit Martins Gardens where the positions and number of caravans are constantly changing.

- The Parish Council are “incredibly disappointed that enforcement notices were not served, and that the applicants have been able to circumvent the threat of enforcement by putting in almost identical planning applications to those submitted in December 2018”.
- It must be determined whether the applicant is a gypsy or traveller in planning terms.
- Evidence that the applicant is leading a “nomadic habit of life” needs to be provided.
- There is no “unmet or proven need” for gypsy and traveller sites.
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches.
- There is a high proportion of gypsy and travellers in Ulcombe
- Existing countryside protection policies should be applied in the Low Weald Landscape of Local Value.
- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.
- long suffering residents of Lenham Road have consistently complained about the very high levels of noise, and the intrusive light pollution from Martins Gardens. This is affecting the health and quality of life of these residents, and is contrary to the NPPF 2019, paragraph 180, which states that planning policies and decisions should take into account the potential sensitivity of the site or the wider impacts.
- The conditions laid down by the planning committee have been blatantly and cynically ignored, surely it is time for MBC to make a stand and refuse permission on this site.

**Headcorn Parish Council (Neighbouring Parish Council)**

5.02 Objection, making the following comments:

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

**Kent Highways**

5.03 No objection. Recommend informative about highways approvals.

**KCC Minerals and Waste Planning Policy Team**

5.04 No objection. The site is not within 250 metres of any safeguarded mineral or waste facility, and thus would not have to be considered against the safeguarding exemption provisions of Policy DM 8: Safeguarding Minerals Management, Transportation, Production and Waste Management Facilities of the adopted Kent Minerals and Waste Local Plan 3013-30.

- 5.05 With regard to land-won minerals safeguarding matters it is the case that the area of the application site is entirely coincident with a safeguarded mineral deposit, that being the Paludina Limestone (a marble that is used as a specialist building stone). The application benefits from exemption criterion (6) of Policy DM 7: Safeguarding Mineral Resources and as result a Minerals Assessment is not required.

**Forestry Commission**

- 5.04 Comment that Ancient Woodland is an irreplaceable habitat. The NPPF (para. 175) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

**Natural England**

- 5.05 No comment. Referral to standing advice

**6. APPRAISAL  
Main Issues**

- 6.01 The key issues for consideration relate to:

- Need for Gypsy sites
- Supply of Gypsy sites
- Gypsy Status
- Personal circumstances
- Visual and landscape impact
- Cumulative impacts
- Design
- Siting sustainability
- Residential amenity
- Parking and highway safety
- Area of Ancient Woodland and ecological interests
- Human Rights and Equality

**Need for Gypsy sites**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012.
- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

- 6.05 The GTAA concluded the following need for pitches over the remaining Local Plan period:

**Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

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

**Supply of Gypsy sites**

- 6.07 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.08 The table on the following page sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.
- 6.09 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.10 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".

**Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

Type of consents	No. of pitches
<b>Permanent consent</b>	<b>196</b>
<b>Permanent consent + personal condition</b>	<b>30</b>
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.11 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

**Gypsy Status**

- 6.12 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such*".

- 6.13 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.14 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by a close family member of the applicant and their partner who have one young child and who need a stable base.
- 6.15 It is advised that although they had previously been travelling and using the roadside to stop in it is unsafe for a close family member and their partner to be continuous travelling gypsies due to family health reasons. There is also a need for the child to be enrolled in mainstream school and receive an education. The close family member will continue to travel.
- 6.16 The couple have previously led a nomadic life and have travelled with the applicant as a family across the country to attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold (Gloucestershire) where they seek work and deal in horses. They have no intention of giving up this life but need a base for health reasons. The close family member works alongside the applicant and travels the UK for work doing landscaping and door to door canvassing for work and this has never been disputed.
- 6.17 The gypsy status of the occupiers of the caravan were accepted as part of the assessment of the earlier application and there has been no change in circumstances. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

#### **Visual and landscape impact**

- 6.18 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.19 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west).
- 6.20 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to "*....conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads*"; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.21 In this case of Plot 3, the siting of 1 mobile home, 1 tourer and 1 dayroom on the site was previously considered acceptable under application (18/506272/FULL) that was granted planning permission on the 12 August 2019 (this permission has subsequently lapsed).

- 6.22 The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the north-east and south-west.
- 6.23 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.24 The mobile home, the subject of the current application, is distanced from the public footpath to the north-east and will be screened from views from the public footpath by the existing and proposed mobile homes on the adjoining Gypsy and Traveller plots (Plots 4, 5 and 6). As a result, there will be no increased visual impact in views from the public footpath as a result of the mobile home on the plot. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the mobile home, touring caravan and small utility room proposed in this application will not have any significant or unacceptable harmful visual and landscape impact in the locality.
- 6.25 The currently unauthorised mobile home plot extends to a greater depth back from Lenham Road than the plot to which this current application relates. The current extent of the plot back from the Lenham Road frontage has impacted on part of the area of Ancient Woodland to the rear of the plot and it would appear that a significant number of established trees that formerly existed on the land have been lost and the landscape harmed.

**Photograph looking north to the centre of the plot showing caravan to be removed.**



- 6.26 The reduction in the depth of the plot proposed in the current application will allow the rear part of the site which forms part of the area designated as Ancient Woodland to be landscaped with native species planting which will provide some mitigation for the harm which has taken place and provide further screening for the mobile home, touring caravan and utility room on the plot.

- 6.27 As part of the current application a 5m wide native species landscaped buffer along the re-positioned rear boundary of the plot is to be planted. The landscaped buffer which, apart from mitigating against the harm to the Ancient Woodland which has taken place, will also provide visual screening to the plot. In the circumstances the mobile home, touring caravan and utility room proposed on the application site will not result in adverse visual harm within this part of the defined Low Weald Landscape of Local Value. This is the same finding as the recently lapsed permission.
- 6.28 The resulting impact on the visual amenities, landscape and rural character of the area does not raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

**Cumulative impacts**

- 6.29 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure. Adopted Local Plan policy DM15 states that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.30 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the neighbouring plots in Martins Gardens to the south-west and north-east of the current application plot.
- 6.31 There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens. The implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the north-eastern, north-western and south-western perimeters of the six plots will mitigate the additional impact. In the context of the existing authorised development, with the implementation of the landscaped buffer to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be considered in conflict with this aim of Local Plan Policy DM15.
- 6.32 Given that the current application for one mobile home, a touring caravan and a small utility room on the site is relatively modest in relation to the extent of other gypsy and traveller development – both authorised and unauthorised - in the near vicinity, an objection on grounds that the development would overwhelm the local community and services cannot be pursued.

**Design**

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

Use

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

Amount

- 6.31 The current retrospective application involves the siting of 1 mobile home, 1 tourer and a dayroom. The development description is identical to the earlier approval under application 18/506272/FULL and the amount of development is acceptable for this plot.



Layout

- 6.32 The proposed site layout is comparable to the layout previously considered acceptable by officers and members in the assessment of the earlier planning application. The layout is considered acceptable in terms of the relationship between dwellings, internal circulation and amenity.

Scale

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

Landscaping

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

Appearance

- 6.35 The appearance of the caravan will be similar to existing caravans on neighbouring plots. With the single storey height of the buildings and the screening from public views the appearance of the caravan is acceptable and it is not considered reasonable to request alternative external facing materials. If thought necessary by members, the painting of the buildings a darker colour could be considered and included as part of a planning condition.

**Siting sustainability**

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

**Residential amenity**

- 6.37 The site is adjoined to the north-east by neighbouring gypsy and traveller sites in Martins Gardens (Plots 1A, 1B, 2, 3 and 4 Martins Gardens). The application site and the neighbouring gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.
- 6.38 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties on the opposite side of Lenham Road, it is not considered that the use of the current application plot for the stationing of one mobile home and one touring caravan and erection of a dayroom would impact on residential amenity.
- 6.39 Vehicular and pedestrian movements to and from the site via the established shared access off Lenham Road which serves four of the five neighbouring Gypsy and Traveller plots in Martins Gardens is not likely to impact on any neighbouring property. No overriding residential amenity issues are considered to be raised in the application.

**Parking and highway safety**

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

**Area of Ancient Woodland and ecological interests**

- 6.44 The application site includes an area of land designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The application site boundary and the Ancient Woodland designation is shown on the plan below. As shown on the proposed layout plans provided earlier in this report the current application involves excluding an area at the rear of the site from development with a landscape buffer across the rear of the site.

**Boundary for 1B (Plot 3) and the Ancient Woodland designation.**



- 6.45 Whilst the mobile home plot being considered as part of this current application still encroaches into both the ancient woodland and the 15m exclusion zone, there was incursion into these areas with the earlier application considered acceptable previously by both officers and members and granted planning permission.

- 6.46 Whilst it is highlighted that the current plot is larger than that previously approved, the current application is recommended for approval because of the benefits arising from the current submission including the proposed landscape buffer. The imposition of the 15 metre buffer would leave little to no developable area on the site.
- 6.47 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present within the surrounding area. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats.
- 6.48 The implementation of a scheme of native species tree and hedgerow planting to provide a landscaped buffer will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home and touring caravan on the current application plot, together with native species landscaping/planting to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

#### **Human Rights and Equality**

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

#### **7. CONCLUSION**

- 7.01 The current retrospective application involves the siting of 1 mobile home, 1 tourer and a dayroom. The development description is identical to the earlier approval under application 18/506272/FULL in a revised layout and the amount of development is acceptable for this plot. The plot is well screened from views from Lenham Road by existing trees and hedgerows. A public footpath runs adjacent to the north-eastern boundary of plot 6 (4 Martins Gardens at the north-eastern end of the row of six gypsy sites).
- 7.02 Whilst the rear part of the application plot (plot 3) and that of the neighbouring plots in Martins Gardens are visible in views from the footpath, the current application site, is distanced from the public footpath and will be screened from views by existing permitted mobile homes on the adjoining Gypsy and Traveller plots (plots 4, 5, 6 Martins Gardens). In these circumstances the visual impact is acceptable in views from the public footpath.

- 7.03 The implementation of a scheme of native species planting to the repositioned rear boundary to provide a 5m wide landscaped buffer to the boundary will mitigate the visual impact of the existing plot in the open countryside location. The native species planting will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements could be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).
- 7.04 A condition is recommended on any grant of planning permission to ensure that the mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.
- 7.05 The mobile home and touring caravan on the established gypsy plot will not result in adverse visual harm within this part of the defined Low Weald Landscape of Local Value. In the context of the permitted Gypsy and Traveller development in Martins Gardens, the development, together with the implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear boundary of the plot, there are no overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan. The grant of planning permission is recommended subject to the conditions set out below.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The mobile home and tourer hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document).  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted, and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than one shall be a static caravan or mobile home, and no further caravans shall be placed at any time anywhere within the site. The static caravan or mobile home shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan as Proposed) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the caravan and the dayroom, removal of the shed, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.
- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

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

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

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

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

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

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

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

- 8) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.  
Reason: In order to safeguard residential and local amenity generally.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement  
Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan

# Agenda Item 26



20/502135/FULL - 2 Martins Gardens, Lenham Road, Headcorn, Kent, TN27 9LE

Scale: 1:2500

Printed on: 14/9/2020 at 14:07 PM by JoannaW

<b>REFERENCE NO</b> 20/502135/FULL (Plot 4)			
<b>APPLICATION PROPOSAL</b> Siting of 2 mobile homes and 2 tourers (Retrospective).			
<b>ADDRESS</b> 2 Martins Gardens Lenham Road Headcorn Ashford Kent TN27 9LE			
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions			
<p>The plot, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application (18/506273/FULL) for one additional mobile home and one tourer was approved by members with the decision issued on the 12.08.2019. The current application involves the same number of caravans in a revised layout.</p> <p>The plot is well screened from views from Lenham Road by existing trees and hedgerows. Whilst the rear part of the plot and that of the neighbouring plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the neighbouring plot (6 Martins Gardens) at the north-eastern end of the row of six gypsy sites, the additional mobile home, the subject of the current application, is distanced from the public footpath to the north-east and will be screened from views from the public footpath by the existing permitted mobile home on the plot and by the development on the adjoining Gypsy and Traveller plots (plots 5 and 6). As a result, there will be no increased visual impact in views from the public footpath as a result of the additional mobile home on the plot.</p> <p>The implementation of a scheme of native species planting to the repositioned rear boundary to provide a landscaped buffer to the boundary will mitigate the visual impact of the existing plot in the open countryside location. The native species planting will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements could be secured by planning condition in accordance with guidance in the NPPF (para. 175).</p> <p>The site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate family members who have outgrown the existing permitted mobile home on the plot. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p> <p>The additional mobile home and touring caravan will not result in adverse visual harm within this part of the defined Low Weald Landscape of Local Value. In the context of the permitted Gypsy and Traveller development in Martins Gardens, the development, together with the implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear boundary of the plot, does not raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.</p>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined at paragraph 5.01			
<b>WARD</b> Headcorn	<b>PARISH/TOWN</b> Ulcombe	<b>COUNCIL</b>	<b>APPLICANT</b> Mrs Mary Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 13/07/20	



### **Relevant Planning History**

- Current application site at 2 Martins Gardens

18/506273/FULL Application for one additional mobile home and one tourer. (Part retrospective) approved 12.08.2019 (committee decision)

18/504256/FULL Proposed siting of 2 mobile homes, 2 touring caravans and a utility room. Refused 11.10.2018 for the following reasons:

- 1) *In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character, appearance and landscape of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1, DM15 and DM30 of the Maidstone Borough Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2018).*
- 2) The use of the site for the stationing of mobile homes has resulted in the significant encroachment of the use into a designated area of Ancient Woodland and the significant loss of trees from the area of Ancient Woodland to the detriment of the visual amenity and landscape of the open countryside location which forms part of Low Weald Landscape of Local Value and the ecological and wildlife interests of the site, contrary to policy DM3 of the Maidstone Borough Local Plan (Adopted 2017) and Government guidance in the NPPF (2018).

MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

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

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

- Adjacent plots

Decisions on the following planning applications for adjacent plots of land are currently pending. There are current applications for 4 out of the 6 plots with no applications submitted for Plot 2 (1A Martins Gardens) or Plot 5 (3 Martins Gardens/5 Martins Gardens). The planning history for these adjacent sites is provided in the relevant reports.

#### **Plot 1**

Oaklands/1 Martins Gardens- 20/502133/Full Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).

**Plot 2**

1A Martins Gardens - No current application (Medical reasons have been given for not submitting an application at this time)

**Plot 3**

1B Martins Gardens - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).

**Plot 4 The current application relates to Plot 4 which is the subject of this report**

2 Martins Gardens 20/502135/FULL -Siting of 2 mobile homes and 2 tourers (Retrospective).

**Plot 5**

3 Martins Gardens/5 Martins Gardens - No current application (Medical reasons have been given for not submitting an application at this time)

**Plot 6**

4 Martins Gardens/6 Martins Gardens - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective).

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 The site is located off the north-western side of Lenham Road and comprises the fourth plot from the south-western end of a row of six Gypsy sites running along the north-western side of Lenham Road known as 1 Martins Gardens, 2 Martins Gardens, 3 Martins Gardens, 5 Martins Gardens, 6 Martins Gardens and The Oaklands. The existing site layout as shown on the ordnance survey plan is provided below with the caravans to be removed from the rear of the application site annotated as 'A' and 'B'.

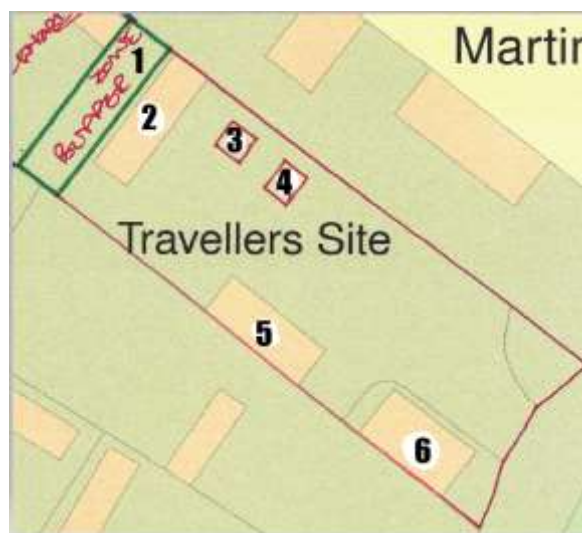
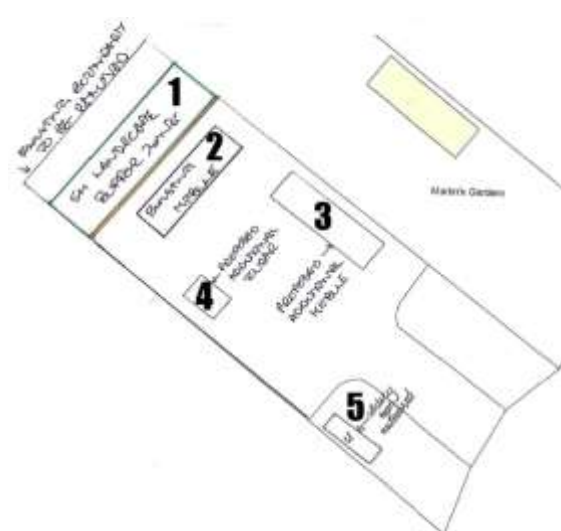
**Caravans to be removed from the site**



- 1.02 The plot is accessed from a shared accessway running off Lenham Road which also serves four of the five neighbouring Gypsy sites forming Martins Gardens. The sixth site, The Oaklands, at the south-western end of the row of sites has its own separate access off Lenham Road.

- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland by the Maidstone Borough Local Plan (Adopted October 2017). The south-western edge of the site is within the KCC Minerals Safeguarding Area.
- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site). For the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined by the Maidstone Borough Local Plan.
- 1.05 The plot referred to in the current application as 2 Martins Gardens benefits from planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room. The planning permission granted by committee in August 2019 permitted a maximum of 4 caravans of which two could be statics with one tourer not shown on the submitted plans.

### **Comparison between the approved layout (August 2019) and current application**



#### **18/506273/FULL (approved Aug 2019)**

- 1: Landscape buffer 5 metres deep
- 2: Existing mobile
- 3: Proposed additional mobile
- 4: Proposed additional mobile
- 5: Utility room

*(NB: Condition 2 permitted four caravans, including maximum of 2 statics/mobiles with one tourer not shown on the above plan).*

#### **20/502135/FULL (current application)**

- 1: Landscape buffer 5 metres deep
- 2: Existing mobile
- 3: Proposed tourer
- 4: Proposed tourer
- 5: Proposed mobile
- 6: Utility room

*(NB Same number of caravans as the earlier approval with a change to the site layout)*

## **2. PROPOSAL**

- 2.01 The application site, as noted above, benefits from planning permission granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot. Planning permission was then granted in August 2019 for 2 additional caravans with a maximum of 4 caravans on the site restricted by condition. The application involves the removal of the caravans on the northern part of the site and the caravans to be removed are shown on the drawing on the map above.

- 2.02 The current application seeks planning permission for the same number of caravans arranged in a different layout on the site with a mobile home moved from the northern part of the site to the south. As with the earlier application a landscape buffer is also shown that marks the northern extent of the caravans.
- 2.03 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by the applicant's family members (5 adults in total and 5 children) and that the currently permitted single mobile home simply does not provide sufficient space anymore. The Planning Statement further states that the children are now in school and are settled into mainstream education and one of the elderly adults has health issues and needs to be with one of the younger adults for care.
- 2.04 The Planning Statement states that the family have always led a nomadic life and have travelled across the country for work in landscaping and horse dealing and whilst they have no intention of giving up this life, they need to have a settled base due to the health issues of one elderly adult and the educational needs of the children.
- 2.05 A planning condition attached to the earlier planning permission (18/506273/FULL) was drafted so that the approval would be lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.06 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements the submission was not chased up.
- 2.07 The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506273/FULL) is now void. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.
- 2.08 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared.
- 2.09 The condition requires additional detail on the means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Planning Policy for Traveller Sites (2015)  
Landscape Capacity Study: Sensitivity Assessment (2015)  
Landscape Character Assessment (2012 – amended 2013)

Landscape Character Assessment Supplement (2012)  
KCC Minerals Plan  
Gypsy and Traveller and Travelling Showpeople Accommodation  
Assessment January 2012  
Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)  
Draft Headcorn Neighbourhood Plan (see note below)

*NB: The Final Examiner's Report on the Headcorn neighbourhood Plan was published on the 19 March 2017. In his report the examiner set out a number of the failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the NDP should not proceed to a local referendum. The Neighbourhood Plan has since been withdrawn.*

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents**

- 4.01 No response from local residents.

##### **Shenley Farms (Aviation) Limited**

- 4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

#### **5. CONSULTATIONS**

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

##### **Ulcombe Parish Council (Neighbouring Parish Council)**

- 5.01 Objection. Making the following comments:

- The Parish Council are "astonished and unimpressed" at having to revisit Martins Gardens where the positions and number of caravans are constantly changing.
- The Parish Council are "incredibly disappointed that enforcement notices were not served, and that the applicants have been able to circumvent the threat of enforcement by putting in almost identical planning applications to those submitted in December 2018".
- It must be determined whether the applicant is a gypsy or traveller in planning terms.
- Evidence that the applicant is leading a "nomadic habit of life" needs to be provided.
- There is no "unmet or proven need" for gypsy and traveller sites.
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches.
- There is a high proportion of gypsy and travellers in Ulcombe
- Existing countryside protection policies should be applied in the Low Weald Landscape of Local Value.
- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.
- long suffering residents of Lenham Road have consistently complained about the very high levels of noise, and the intrusive light pollution from Martins Gardens. This is affecting the health and quality of life of these residents, and is contrary to the NPPF 2019, paragraph 180, which states that planning policies and decisions should take into account the potential sensitivity of the site or the wider impacts.
- The conditions laid down by the planning committee have been blatantly and cynically ignored, surely it is time for MBC to make a stand and refuse permission on this site.

**Headcorn Parish Council (Neighbouring Parish Council)**

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

**Kent Highways**

- 5.03 No objection. Recommend informative about highways approvals.

**KCC Minerals and Waste Planning Policy Team**

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

**6. APPRAISAL  
Main Issues**

- 6.01 The key issues for consideration relate to:
- Need for Gypsy sites
  - Supply of Gypsy sites
  - Gypsy Status
  - Personal circumstances
  - Visual and landscape impact
  - Cumulative impacts
  - Design
  - Siting sustainability
  - Residential amenity
  - Parking and highway safety
  - Area of Ancient Woodland and ecological interests
  - Human Rights and Equality

### **Need for Gypsy sites**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans.
- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period is shown in the table on the following page.
- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

### **Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

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

### **Supply of Gypsy sites**

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

### **Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".
- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by the applicant's close family members (5 adults and 5 children) and that the permitted single mobile home simply does not provide sufficient space anymore. The Planning Statement further states that the children are now in school and are settled into mainstream education and that one of the elderly adult family members has health issues and needs to be with another one of the family members for care.
- 6.14 The Planning Statement states that the family have always led a nomadic life and have travelled across the country for work in landscaping and horse dealing and that they always attend the horse fayres at Appleby, Cotswolds, Kent, and Stow on the Wold where they also seek work and deal in horses. The Statement further states that whilst they have no intention of giving up this life, they need to have a settled base due to the family member's health issues and the educational needs of the children.
- 6.15 The site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate existing family members on the site who have outgrown the existing permitted mobile home/caravan accommodation. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).



- 6.16 The gypsy status of the occupiers of the caravans were accepted as part of the assessment of the earlier application and there has been no change in circumstances. Personal details provided in this report have been anonymised in line with guidance from the Council's Data Protection Officer.

**Personal circumstances**

- 6.17 The current application is submitted to provide an additional mobile home for existing family members who have outgrown the existing permitted mobile home/caravan accommodation and to provide a settled base for the educational needs of the existing children living on the site and for an elderly adult's health care.
- 6.18 The personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

**Visual and landscape impact**

- 6.19 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.20 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six sites and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.21 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to *"...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads"*; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.22 The plot, in this case, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the north-east and south-west. Some of the development on these plots is currently unauthorised.
- 6.23 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.24 The plot, the subject of this application, is set back from the frontage to Lenham Road and is well screened from views from the road by existing trees and hedgerows along the road frontage.

- 6.25 The rear part of the plot and that of the neighbouring Gypsy and Traveller plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the plot at the north-eastern end of the row of six gypsy sites. The tops of the mobile homes on the rear part of the plots are visible above the close boarded boundary fencing enclosing the plots.
- 6.26 The additional mobile home, the subject of the current application, is distanced from the public footpath to the north-east. The proposed additional mobile home will be screened from views from the public footpath by the existing mobile home on the application plot and by the development on the adjoining Gypsy and Traveller plots (Plots 3 and 4). As a result, there will not be any increased visual impact in views from the public footpath. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, the additional mobile home and touring caravan will not have any significant or unacceptable harmful visual and landscape impact in the locality.
- 6.27 The proposal includes the reduction in the depth of the current plot by some 9m to bring it back more in line with that approved on appeal in 2009. The proposal includes a scheme of native tree and hedgerow planting to provide a 5m wide landscaped buffer along the repositioned north-western (rear) boundary of the plot. These measures will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape. The additional mobile home and touring caravan will not result in adverse visual harm within this part of the defined Low Weald Landscape of Local Value.
- 6.28 The resulting impact on the visual amenities, landscape and rural character of the area does not raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

#### **Cumulative impacts**

- 6.29 Guidance set out in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and/or place undue pressure on local infrastructure. In addition, adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.30 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the neighbouring plots in Martins Gardens to the south-west and north-east of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area. The plots at the south-western end of Martins Gardens have a visual impact when viewed from Lenham Road and the plots at the north-eastern end of the row impact in views from the public footpath running north-west from Lenham Road to the north-east of the plot at the north-eastern end of the row (4 Martins Gardens).
- 6.31 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape.

- 6.32 There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but the implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the north-eastern, north-western and south-western perimeters of the six plots will mitigate the additional impact. In the context of the existing authorised development, with the implementation of the landscaped buffer to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be considered in conflict with this aim of Local Plan Policy DM15.
- 6.33 Given that the current application for one additional mobile home on the site (2 mobile homes in total) is relatively modest in relation to the extent of other gypsy and traveller development – both authorised and unauthorised – in the near vicinity, it is not considered that an objection on grounds that the development would overwhelm the local community and services can be pursued.

### **Design**

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

#### Use

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

#### Amount

- 6.36 The current retrospective application involves the siting of 2 mobile homes and 2 tourers. The development description is identical to the earlier approval under application 18/506273/FULL and the amount of development is acceptable for this plot.

#### Layout

- 6.37 The previously approved layout is compared that the currently proposed layout in the plans provided earlier in this report. The layout is considered acceptable in terms of the relationship between dwellings, internal circulation and amenity.

#### Scale

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

#### Landscaping

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

#### Appearance

- 6.40 The appearance of the caravans/day room can be seen in the photograph below. With the single storey height of the caravans and the screening from public views the appearance of the caravans is acceptable, and it is not considered reasonable to request alternative external facing materials.

- 6.41 If thought necessary by members, the painting of the buildings a darker colour could be considered and included as part of a planning condition.

**Photograph looking north with retained caravan in the centre of the plot.**



**Siting sustainability**

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

**Residential amenity**

- 6.44 The site is adjoined to the south-west and north-east by neighbouring gypsy and traveller sites in Martins Gardens (The Oaklands, Plots 1A and 1B Martins Gardens to the south-west and 3 and 4 Martins Gardens to the north-east). The gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.
- 6.45 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties, it is not considered that the use of the current application plot for the stationing of one additional mobile home (2 mobile homes in total) results in any unacceptable unneighbourly impact.
- 6.46 Vehicular and pedestrian movements to and from the site via the established shared access off Lenham Road which serves four of the five neighbouring Gypsy and Traveller plots in Martins Gardens is not likely to impact on any neighbouring property. No overriding residential amenity issues are considered to be raised in the application.

**Parking and highway safety**

- 6.47 The proposal uses the shared access off Lenham Road serving the neighbouring Gypsy and Traveller plots in Martins Gardens to the south-west and north-east of the current application plot. The shared access formed part of the mobile home use of the application plot and the neighbouring plots granted planning permission on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above).
- 6.48 The permitted shared access is considered acceptable for the additional mobile home use in terms of highway safety. Adequate hardsurfaced space is available within the plot for the parking of vehicles associated with the residential use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the plot in a forward gear. The level of vehicle movements to and from the site is not likely to be so significant as to raise any overriding highway safety issues. Kent Highways raise no objection.

**Ancient Woodland and ecological interests**

- 6.49 The application site includes an area of land designated as ancient woodland (see image below). The site is predominantly hardsurfaced and enclosed by close boarded fencing, however the current application with the removal of caravans from the northern part of the site and the provision of a landscape buffer will have a positive impact on the current situation and will improve the situation for nearby undisturbed ancient woodland.

**Relationship of application site to ancient woodland (green hatching)**



- 6.41 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats.

- 6.42 The implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the repositioned north-western boundary of the plot will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the current proposal, together with native species landscaping/planting to the rear part of the plot to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

#### **Human Rights and Equality**

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

### **7. CONCLUSION**

- 7.01 The plot, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room. A previous recent application (18/506273/FULL) for one additional mobile home and one tourer was approved by members with the decision issued on the 12.08.2019. The current application involves the same number of caravans in a revised layout.
- 7.02 The plot is well screened from views from Lenham Road by existing trees and hedgerows. Whilst the rear part of the plot and that of the neighbouring plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the neighbouring plot (6 Martins Gardens) at the north-eastern end of the row of six gypsy sites, the additional mobile home, the subject of the current application, is distanced from the public footpath to the north-east and will be screened from views from the public footpath by the existing permitted mobile home on the plot and by the development on the adjoining Gypsy and Traveller plots (plots 5 and 6). As a result, there will be no increased visual impact in views from the public footpath as a result of the additional mobile home on the plot.
- 7.03 The implementation of a scheme of native species planting to the repositioned rear boundary to provide a landscaped buffer to the boundary will mitigate the visual impact of the existing plot in the open countryside location. The native species planting will enhance ecology/biodiversity at the site and further ecological mitigation and/or enhancements could be secured by planning condition in accordance with Government guidance in the NPPF (para. 175).

- 7.04 The site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate family members who have outgrown the existing permitted mobile home on the plot. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.
- 7.05 The additional mobile home and touring caravan proposed in this application on the established gypsy plot will not result in adverse visual harm within this part of the defined Low Weald Landscape of Local Value. In the context of the permitted Gypsy and Traveller development in Martins Gardens, the development, together with the implementation of a scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear boundary of the plot, does not raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan. The grant of planning permission is recommended subject to the conditions set out below.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile homes and tourers hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document).  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site (Plot 2 as shown on the submitted Site Location Plan) at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

- (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the mobile homes, the internal layout of the site, including the siting of the static caravans, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.
- (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
- (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.

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

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

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

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

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

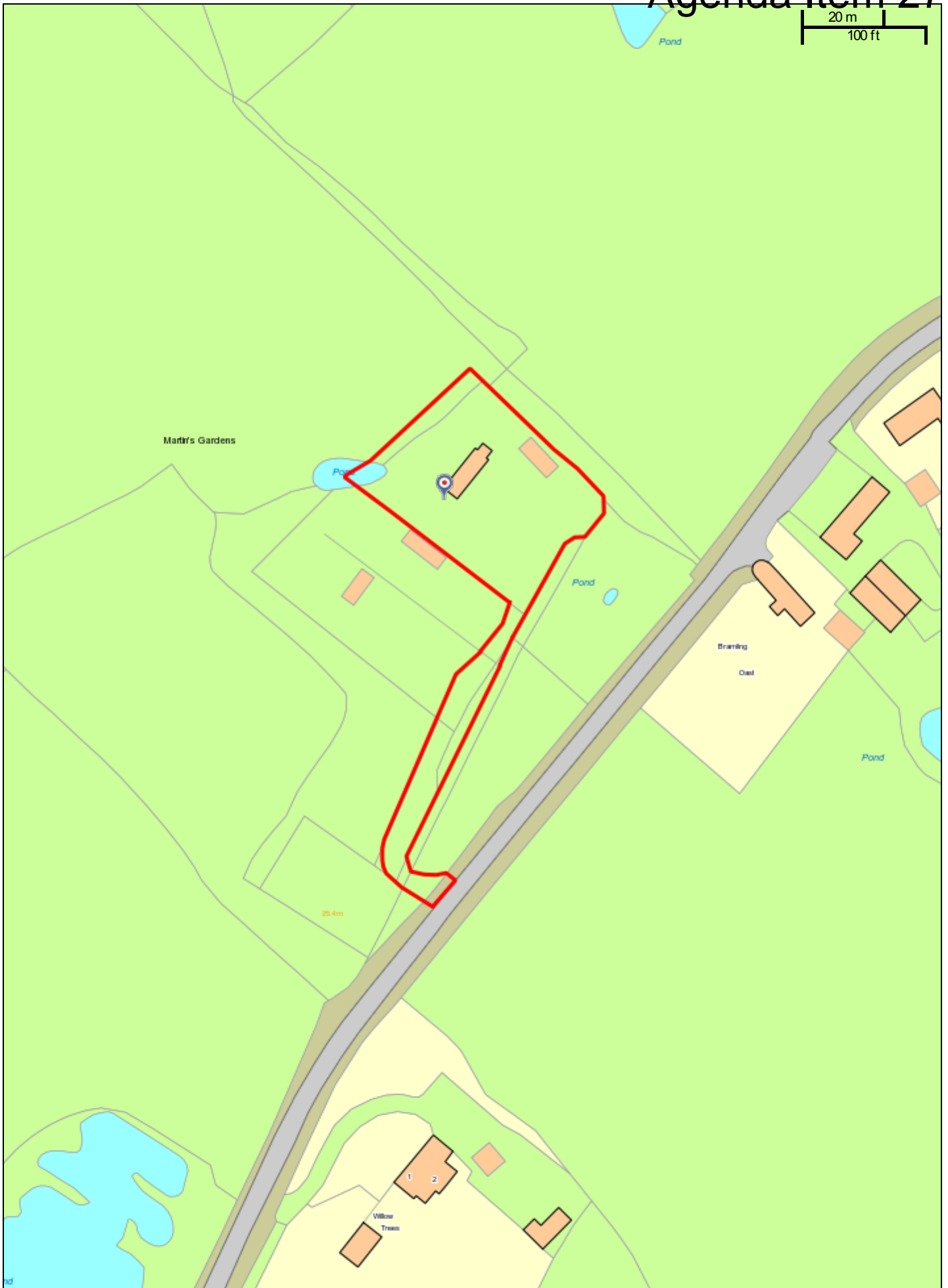
- 7) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the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

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



- 8) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.  
Reason: In order to safeguard residential and local amenity generally.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement  
Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan



<b>REFERENCE NO</b> 20/502136/FULL (Plot 6)		
<b>APPLICATION PROPOSAL</b> Siting of 1no. additional mobile home (Retrospective).		
<b>ADDRESS</b> 4 Martins Gardens, (previously 6 Martins Gardens) Lenham Road Headcorn Ashford Kent TN27 9LE		
<b>RECOMMENDATION</b> - GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <p>The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six plots – both authorised and unauthorised. Planning permission was previously approved in 2009 in terms of an allowed appeal (ENF/10155). A subsequent approval in August 2019 (18/506276/FULL) was for one additional mobile home and one tourer and the current application is for the same amount of development.</p> <p>The plot is well screened from views from Lenham Road by existing trees and hedgerows. A public footpath runs adjacent to the side (north-east) boundary of the plot. Whilst the plot is visible in views from the footpath the proposal does not involve additional mobile homes on the boundary and any views are against the backdrop of the mobile home developments on the application plot and neighbouring plots. As a result, any increased visual impact in views from the public footpath will not be significant or intrusive.</p> <p>The application includes a native species landscaped buffer zone planted to the rear boundary of the site. The planting of a landscaped buffer will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape to the rear.</p> <p>In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, and the landscape buffer, the additional mobile home and touring caravan proposed in this application will not have any significant or unacceptable harmful visual or landscape impact in the locality.</p> <p>The additional mobile home is to accommodate existing family members on the site who have outgrown the existing permitted mobile home/caravan accommodation on the plot. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.</p>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <p>Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve planning permission, this request is made for the reasons outlined at paragraph 5.01</p>		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Ulcombe	<b>APPLICANT</b> Mrs Mary Cash <b>AGENT</b> L Jennings
<b>TARGET DECISION DATE</b> 08/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 13/07/20

### **Relevant planning history**

- Current application site at 4 Martins Gardens (previously 6 Martins Gardens)  
18/506276/FULL Application for one additional mobile home and one tourer. (Retrospective) approved 12.08.2019 (committee decision)

18/500924/FULL - Stationing of 2 additional mobile homes to be occupied by Gypsy and Traveller families at 6 Martins Gardens (now 4 Martins Gardens). Refused 28.06.18 for the following reasons:

*'In the absence of sufficient information pertaining to Gypsy and Traveller status, there is no justification for allowing this development, given the adverse visual harm it would have on the character and appearance of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1 and DM30 of the Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2012).'*

18/500785/FULL - Erection of dayroom at 6 Martins Gardens (now 4 Martins Gardens). Refused 28.06.18 for the following reasons:

*'The proposed development is not ancillary accommodation and there is no justification for allowing this development, given the adverse visual harm it would have on the character and appearance of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2012).'*

18/500924/FULL Stationing of 2 additional mobile homes to be occupied by Gypsy and Traveller families refused 28.06.2018 for the following reasons:

*"In the absence of sufficient information pertaining to Gypsy and Traveller status there is no justification for allowing this development, given the adverse visual harm it would have on the character and appearance of the countryside hereabouts that falls within a Landscape of Local Value and is of high overall landscape sensitivity that is sensitive to change. The proposed development would represent inappropriate development in the countryside for which no justification has been demonstrated. The proposal is therefore contrary to policies SS1, SP17, DM1 and DM30 of Maidstone Local Plan (2017); the Maidstone Landscape Character Assessment & Supplement (2012); the Maidstone Landscape Capacity Study: Sensitivity Assessment (2015); and the National Planning Policy Framework (2012)".*

MA/11/1122 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Approved 23.12.11.

MA/09/1722 An application to discharge conditions relating to ENF/10155 appeal decisions (A) APP/U2235/C/08/2090071 conditions 2 & 3; & (B) APP/U2235/C/08/2090073 conditions 3 & 4 – being details of Site Management Plan. Split decision (Part refused/part approved) 24.12.09.

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

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

- **Adjacent plots**

Decisions on the following planning applications for adjacent plots of land are currently pending. There are current applications for 4 out of the 6 land plots with no applications submitted for Plot 2 (1A Martins Gardens/2 Martins Gardens) or Plot 5 (3 Martins Gardens/5 Martins Gardens). The planning history for these adjacent land plots is provided in the relevant individual reports.

**Plot 1**

Oaklands (1 Martins Gardens)- 20/502133/Full Siting of 1no. additional mobile home and 1no. additional tourer (Retrospective).

**Plot 2**

1A Martins Gardens (2 Martins Gardens) No current application (Medical reasons have been given for not submitting an application at this time)

**Plot 3**

1B Martins Gardens (3 Martins Gardens) - 20/502134/full - Siting of 1no. mobile home, 1no. tourer and erection of a dayroom (Retrospective).

**Plot 4**

2 Martins Gardens (4 Martins Gardens) 20/502135/FULL - this is the current application site. Siting of 2 mobile homes and 2 tourers (Retrospective).

**Plot 5**

3 Martins Gardens (5 Martins Gardens) - No current application (Medical reasons have been given for not submitting an application at this time)

**Plot 6 The current application relates to Plot 6 which is the subject of this report**

4 Martins Gardens (6 Martins Gardens) - 20/502136/Full - Siting of 1no. additional mobile home (Retrospective).

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 The site is located off the north-western side of Lenham Road and comprises the sixth plot from the south-western end of a row of six Gypsy sites running along the north-western side of Lenham Road.
- 1.02 The following are the current plot names, followed by the previous names in brackets  
Plot 1: Oaklands (1 Martins Gardens), Plot 2: 1A Martins Gardens (2 Martins Gardens), Plot 3: 1B Martins Gardens (3 Martins Gardens), Plot 4: 2 Martins Gardens (4 Martins Gardens), Plot 5: 3 Martins Gardens (5 Martins Gardens and Plot 6: 4 Martins Gardens (6 Martins Gardens).
- 1.03 The current application plot is accessed from a shared accessway running off Lenham Road which also serves four of the other five neighbouring Gypsy sites forming Martins Gardens. The sixth site, The Oaklands, at the south-western end of the row of sites has its own separate access off Lenham Road.
- 1.04 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the current plot and an open field adjoins to the rear (north-west).

- 1.05 Whilst there is no land designated as Ancient Woodland included within the current application site, the area of Ancient Woodland within and adjacent to other plots is highlighted. The south-western edge of the site is within the KCC Minerals Safeguarding Area.
- 1.06 The site is less than 2km from the edge of Headcorn village (to the south-west of the site). For the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined by the Maidstone Borough Local Plan.
- 1.07 The current plot benefits from planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room. The planning permission granted by committee in August 2019 permitted the siting of 1no. additional mobile home (Retrospective). A comparison between the previously approved permission and the current application is provided below.

**Comparison between the layout approved in August 2019 and the current application**



**18/506276/FULL (approved Aug 2019)**

- 1: Landscape buffer 5 metres deep
- 2: Continued landscape buffer
- 3: Existing mobile
- 4: Existing utility
- 5: Proposed mobile
- 6: Proposed tourer
- 7: Proposed tourer

*(NB: Condition 2 permitted four caravans including maximum of 2 statics / mobiles)*

**20/502136/FULL (current application)**

- 1: Existing shed to be removed
- 2: Proposed mobile
- 3: Proposed tourer (parking for tourer)
- 4: Permitted dayroom
- 5: Permitted mobile

*(NB Same number of caravans as the earlier approval with a change to the site layout)*

**2. PROPOSAL**

- 2.01 The application site, as noted above, benefits from planning permission granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot. Planning permission was then granted in August 2019 (18/506276/FULL) for the stationing of one additional mobile home and one additional touring caravan on the plot.

- 2.02 The current application seeks planning permission for the same number of caravans arranged in a different layout on the site. As with the earlier application a landscape buffer is also shown that marks the northern extent of the caravans.
- 2.03 A planning condition attached to the earlier planning permission (18/506276/FULL) was drafted so that the approval would be lapse if a number of details were not submitted to the Council by the applicant within the 3 months following the decision.
- 2.04 The applicant has explained that to the best of their knowledge the required details were submitted within the required time limit, however due to a number of issues including several family bereavements since this time the submission was not chased up.
- 2.05 The Council has no record of these details being received and the current planning application is submitted on the basis that the earlier planning permission (18/506276/FULL) is now void. Whilst this earlier permission cannot be implemented, the committee decision from August 2019 remains a strong material consideration in the assessment of this current planning application.
- 2.06 A similar condition (condition 4) to that referred to above is recommended to be attached to this resubmitted application with a reduced compliance time period of 6 weeks (previously 12 weeks). Whilst 6 weeks would normally be considered an unreasonably short time period for the submission of details, in this case the applicant is already fully aware of the condition requirements and has stated that a submission was previously prepared.
- 2.07 The condition requires additional details on the internal layout of the site, including the siting of the static caravans, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a landscape buffer zone including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and a timetable for implementation of these details.
- 2.08 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by the applicant's son and his partner who also have a young child and who now needs a stable base. The Planning Statement further states that although the family member and partner have always been travelling and using the roadside to stop in, it is not safe for them both to continue to be continuous travelling gypsies and the stable base will allow the new child to enrol in main stream school and receive an education.
- 2.09 The Planning Statement states that the family have always led a nomadic life and have travelled across the country for work in landscaping and horse dealing and whilst they have no intention of giving up this life, they need to have a settled base due to the health issues of one elderly adult and the educational needs of the children.

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning Policy for Traveller Sites (2015)

Landscape Capacity Study: Sensitivity Assessment (2015)

Landscape Character Assessment (2012 – amended 2013)

Landscape Character Assessment Supplement (2012)

KCC Minerals Plan

Gypsy and Traveller and Travelling Showpeople Accommodation  
Assessment January 2012  
Gypsy and Traveller and Travelling Showpeople Topic Paper (2016)  
Draft Headcorn Neighbourhood Plan (see note below)

NB: The Final Examiner's Report on the Headcorn neighbourhood Plan was published on 19 March 2017. In his report the examiner set out a number of failings that were found with the submitted neighbourhood plan. As a result of his conclusions the examiner recommended, in accordance with legislation that the NDP should not proceed to a local referendum. The Neighbourhood Plan has since been withdrawn.

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents**

- 4.01 One response has been received objecting to the proposal on the following grounds that have a negative impact on the quality of the rural location:
- Concerns over existing level of light pollution,
  - Concerns about a considerable increase in the noise levels. This is often during the day and evening including loud music and voices, often raised tempers.

##### **Shenley Farms (Aviation) Limited**

- 4.02 No objection raised providing the development will not be in any way inconsistent with the existing and well established use of and activity at Headcorn Aerodrome.

#### **5. CONSULTATIONS**

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

##### **Ulcombe Parish Council**

- 5.01 Objection. Making the following comments:
- The Parish Council are "astonished and unimpressed" at having to revisit Martins Gardens where the positions and number of caravans are constantly changing.
  - The Parish Council are "incredibly disappointed that enforcement notices were not served, and that the applicants have been able to circumvent the threat of enforcement by putting in almost identical planning applications to those submitted in December 2018".
  - It must be determined whether the applicant is a gypsy or traveller in planning terms.
  - Evidence that the applicant is leading a "nomadic habit of life" needs to be provided.
  - There is no "unmet or proven need" for gypsy and traveller sites.
  - Maidstone Borough Council now has a 5.3 year supply of traveller pitches.
  - There is a high proportion of gypsy and travellers in Ulcombe
  - Existing countryside protection policies should be applied in the Low Weald Landscape of Local Value.
  - The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.
  - long suffering residents of Lenham Road have consistently complained about the very high levels of noise, and the intrusive light pollution from Martins Gardens. This is affecting the health and quality of life of these residents, and is contrary to the NPPF 2019, paragraph 180, which states that planning policies and decisions should take into account the potential sensitivity of the site or the wider impacts.
  - The conditions laid down by the planning committee have been blatantly and cynically ignored, surely it is time for MBC to make a stand and refuse permission on this site.



**Headcorn Parish Council (Neighbouring Parish Council)**

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

**Kent Highways**

- 5.03 No objection. Recommend informative about highways approvals.

**KCC Minerals and Waste Planning Policy Team**

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

**6. APPRAISAL  
Main Issues**

- 6.01 The key issues for consideration relate to:
- Need for Gypsy sites
  - Supply of Gypsy sites
  - Gypsy Status
  - Personal circumstances
  - Visual and landscape impact
  - Cumulative impacts
  - Design
  - Siting sustainability
  - Residential amenity
  - Parking and highway safety
  - Area of Ancient Woodland and ecological interests
  - Human Rights and Equality

**Need for Gypsy sites**

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

- 6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

**Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

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

- 6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.
- 6.05 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

**Supply of Gypsy sites**

- 6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

**Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

- 6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate a 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.
- 6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".

- 6.10 The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 The Planning Statement submitted in support of the application states that the additional mobile home will be occupied by the applicant's son, his partner and their young child. Although they have always been travelling and using the roadside to stop in, it is not safe for them both to continue to be continuous travelling gypsies so that their child can be enrolled in main stream school and receive an education.
- 6.14 They have previously led a nomadic life and have travelled with the applicant across the country to attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the wold where they also seek work and deal in horses. They have no intention of giving up this life but need a base for health reasons. The applicant's son works alongside the applicant and travels the UK for work (landscaping and door to door canvassing for work) and this has never been disputed.
- 6.15 The site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate existing family members on the site who have outgrown the existing permitted mobile home/caravan accommodation. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).

### **Personal circumstances**

- 6.16 The current application is submitted to provide an additional mobile home for existing family members who have outgrown the existing permitted mobile home/caravan accommodation and to provide a settled base for the educational needs of the existing children living on the site and for an elderly adult's health care.
- 6.17 The personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

### **Visual and landscape impact**

- 6.18 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.

- 6.19 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.20 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to *"...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads"*; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.21 The plot, in this case, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. In addition, the site previously benefitted from the second planning permission granted in August 2019 (now lapsed) which was similar in nature to the current proposal.
- 6.22 The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the south-west. Some of the development on these plots is currently unauthorised.
- 6.23 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or discreetly located in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.24 The plot, the subject of this application, is set back from the frontage to Lenham Road and is well screened from views from the road by existing trees and hedgerows along the road frontage. The plot and the rear parts of the neighbouring Gypsy and Traveller plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the plot. The tops of the mobile homes are visible above the close boarded boundary fencing enclosing the plots.
- 6.25 The stationing of additional mobile homes within the Martins Gardens plots and the resulting intensification of the existing mobile home development in the locality has the potential to increase the visual impact in the locality and the impact on the open countryside landscape. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, and the landscaped buffer zone, the additional mobile home and touring caravan proposed in this application will not have a significant and unacceptable harmful visual and landscape impact in the locality including visual harm to the defined Low Weald Landscape of Local Value.
- 6.26 The resulting impact on the visual amenities, landscape and rural character of the area is not considered to raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

### **Cumulative impacts**

- 6.27 The PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas, they should not dominate the nearest settled community and/or place undue pressure on local infrastructure. In addition, adopted Local Plan policy DM15 states, amongst other criteria to be met in Gypsy and Traveller development, that permission will be granted if a site would not significantly harm the landscape and rural character of an area due to cumulative effect.
- 6.28 There are various gypsy and traveller sites in the vicinity of the current application plot – both authorised and unauthorised, including the neighbouring plots in Martins Gardens to the south-west of the current application plot. The collective presence of these mobile home sites, together with the development on the current application plot and in Martins Gardens generally, is considered to erode the visual amenity and rural character of the area. The plots at the south-western end of Martins Gardens have a visual impact when viewed from Lenham Road and the plots at the north-eastern end of the row impact in views from the public footpath running north-west from Lenham Road to the north-east of the current application plot.
- 6.29 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but the implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer zones will mitigate the additional impact. In the context of the existing authorised development, with the implementation of the landscaped buffer to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be considered in conflict with this aim of Local Plan Policy DM15.

### **Design**

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

#### Use

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

#### Amount

- 6.32 The current retrospective application involves the siting of an additional mobile home. The development description is identical to the earlier approval under application 18/506276/FULL and the amount of development is acceptable for this plot.

#### Layout

- 6.33 The previously approved layout is compared that the currently proposed layout in the plans provided earlier in this report. The layout is considered acceptable in terms of the relationship between dwellings, internal circulation and amenity.

#### Scale

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

Landscaping

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

Appearance

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

**Photograph looking north of retained caravan in the centre of the plot.**



**Siting sustainability**

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

**Residential amenity**

- 6.38 The site is adjoined to the south-west by neighbouring gypsy and traveller sites in Martins Gardens (The Oaklands, Plots 1A, 1B, 2 and 3 Martins Gardens). The gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.

- 6.39 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties, it is not considered that the use of the current application plot for the stationing of one additional mobile home (2 mobile homes in total) results in any unacceptable unneighbourly impact.
- 6.40 The comments from the neighbour in relation to noise and light are noted. The proposal is for a residential use and as a result it cannot be considered incompatible with other residential uses in terms of noise. In relation to light, a condition is recommended that seeks the submission and approval of details relating to external lighting on the site.
- 6.41 Vehicular and pedestrian movements to and from the site via the established shared access off Lenham Road which serves four of the five neighbouring Gypsy and Traveller plots to the south-west is not likely to impact on any neighbouring property. No overriding residential amenity issues are considered to be raised in the application.

**Parking and highway safety**

- 6.42 The plot has access from the shared access off Lenham Road serving the neighbouring Gypsy and Traveller plots in Martins Gardens to the south-west of the current application plot. The shared access formed part of mobile home use of the application plot and the neighbouring plots granted planning permission on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above).
- 6.43 The permitted shared access is acceptable for the additional mobile home use in terms of highway safety. Adequate hardsurfaced space is available within the plot for the parking of vehicles associated with the residential use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the plot in a forward gear. The level of vehicle movements to and from the site is not likely to be so significant as to raise any overriding highway safety issues. Kent Highways raise no objection.

**Ancient Woodland and ecological interests**

- 6.44 To the rear of the plots at the south-western end of the row of Gypsy and Traveller sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The current application plot is located at the north-eastern end of the row of Gypsy and Traveller sites and does not impact on the area designated as Ancient Woodland or the 15m buffer zone of the area of Ancient Woodland.
- 6.45 The site is predominantly hardsurfaced and enclosed by close boarded fencing. There are existing trees in the northern and eastern corners of the plot which are to be retained. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site.
- 6.46 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.
- 6.47 The implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the repositioned rear (north-western) and side boundaries of the plot will enhance the ecological/biodiversity interests at the site.

- 6.48 As such, a grant of planning permission for the additional mobile home on the current application site, together with native species landscaping/planting to the rear and side boundaries of the plot to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

#### **Human Rights and Equality**

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

### **7. CONCLUSION**

- 7.01 The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. Planning permission was previously approved in August 2019 (18/506276/FULL) for one additional mobile home and one tourer and the current application is for the same amount of development.
- 7.02 The plot is well screened from views from Lenham Road by existing trees and hedgerows. A public footpath runs adjacent to the north-eastern boundary of the plot. Whilst the plot is visible in views from the footpath the proposal does not involve additional mobile homes on the boundary and any views are against the backdrop of the mobile home developments on the application plot and the neighbouring plots. As a result any increased visual impact in views from the public footpath will not be significant or intrusive.
- 7.03 The application shows a native species landscaped buffer zone planted to the rear boundary of the site. The planting of a landscaped buffer will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape.
- 7.04 In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, and the landscape buffer, the additional mobile home and touring caravan proposed in this application will not have any significant or unacceptable harmful visual or landscape impact in the locality.
- 7.05 The additional mobile home is to accommodate existing family members on the site who have outgrown the existing permitted mobile home/caravan accommodation on the plot. A condition is recommended on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.



**8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document)  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted, and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 6 weeks of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 6 weeks of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the external appearance of the mobile home, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a landscape buffer zone including details of species, plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.
  - (ii) within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - (iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted Scheme shall have been approved by the Secretary of State.
  - (iv) the approved Scheme shall have been carried out and completed in accordance with the approved timetable and thereafter maintained and retained as approved.  
Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.

- (5) At the same time as the Site Development Scheme required by condition 4 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for the proposed planting within the landscape buffer zone for a period of 5 years, the 5 years beginning on the date of the completion of the implementation of the planting as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.  
Reason: To ensure the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value is safeguarded.
- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.  
Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.
- 7) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land without the prior permission of the Local Planning Authority other than as expressly permitted by this decision;  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 8) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.  
Reason: In order to safeguard residential and local amenity generally.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans and information: Site Location Plan, Proposed Block Plan and Planning Statement  
Reason: To clarify which plans have been approved.

Case Officer: Tony Ryan

## **THE MAIDSTONE BOROUGH COUNCIL** **PLANNING COMMITTEE – 24.09.20**

### **APPEAL DECISIONS:**

**1. 19/503532/OUT**

Outline application with access matters sought for demolition of two existing buildings and erection of four residential dwellings. (Matters of appearance, landscaping, layout and scale are reserved for future considerations.)

**APPEAL: ALLOWED**  
**COSTS: REFUSED**

3-5 Kings Road  
Headcorn  
Ashford  
Kent  
TN27 9QT

(Committee)

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**2. 19/503171/FULL**

Erection of front extension to form 2no. double storey bay windows, and roof alterations to form second floor.

**APPEAL: DISMISSED**

Park House  
Park Way  
Maidstone  
ME15 7DL

(Delegated)