

# ADJOURNED PLANNING COMMITTEE MEETING

Date: Thursday 1 October 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**

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1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Items withdrawn from the Agenda
5. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
6. Disclosures by Members and Officers
7. Disclosures of lobbying
8. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
9. 20/501090/FULL - Clothworkers Arms, Lower Road, Sutton Valence, Maidstone, Kent 1 - 10
10. 20/502182/FULL - Maplehurst Paddock, Frittenden Road, Staplehurst, Tonbridge, Kent 11 - 36
11. 20/502770/FULL - Holman House, Station Road, Staplehurst, Tonbridge, Kent 37 - 54

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**Issued on Friday 25 September 2020**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

12.	20/502133/FULL - Oaklands, Lenham Road, Headcorn, Kent,	55 - 74
13.	20/502134/FULL - 1B Martins Gardens, Lenham Road, Headcorn, Kent	75 - 93
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#### **PLEASE NOTE**

**The order in which items are taken at the meeting may be subject to change.**

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

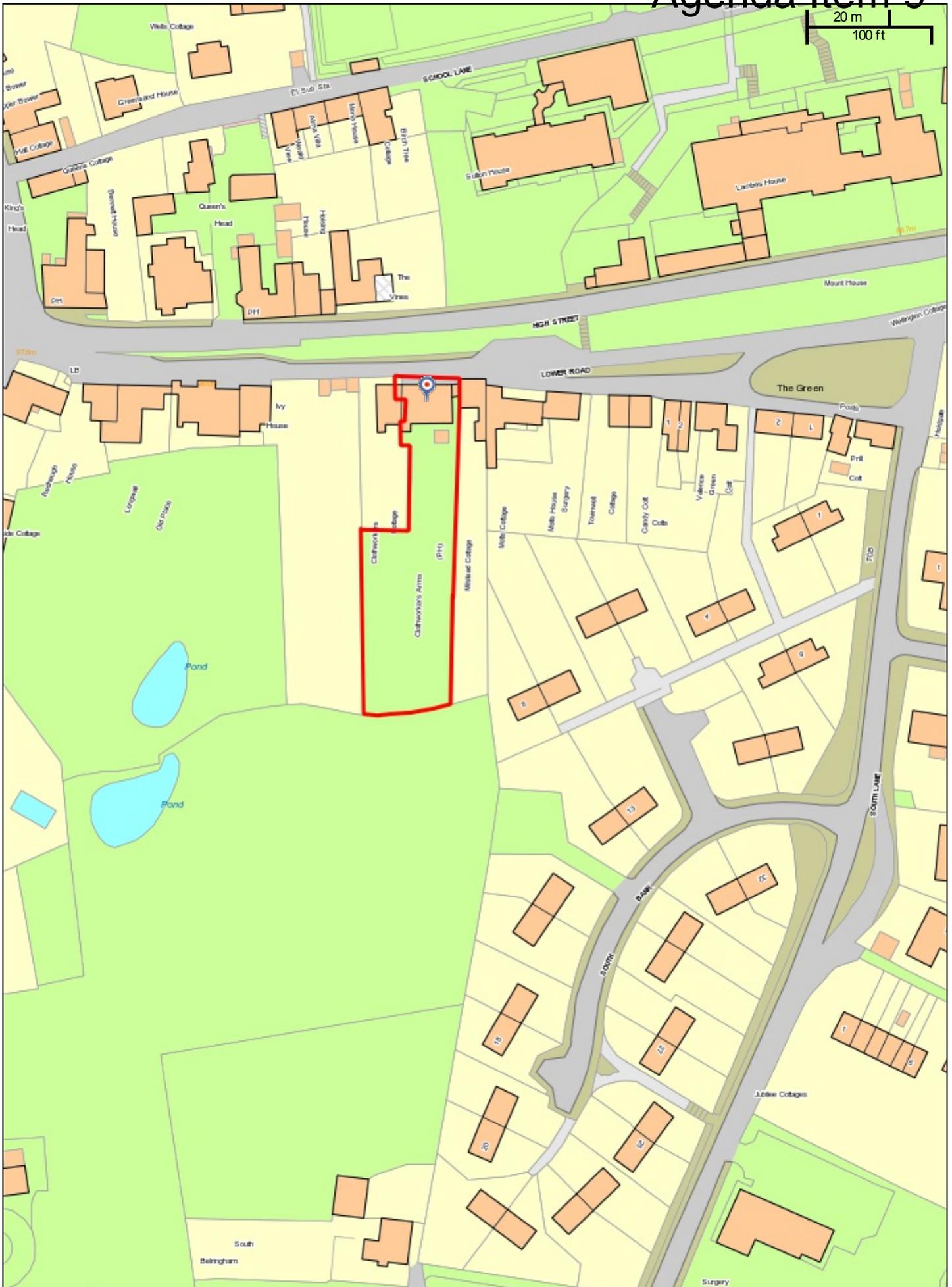
**For full details of all papers relevant to the reports on the agenda, please refer to the public access pages on the Maidstone Borough Council website. Background documents are available for inspection; please follow this link: <https://pa.midkent.gov.uk/online-applications/>**

#### **ALTERNATIVE FORMATS**

**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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# Agenda Item 9



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

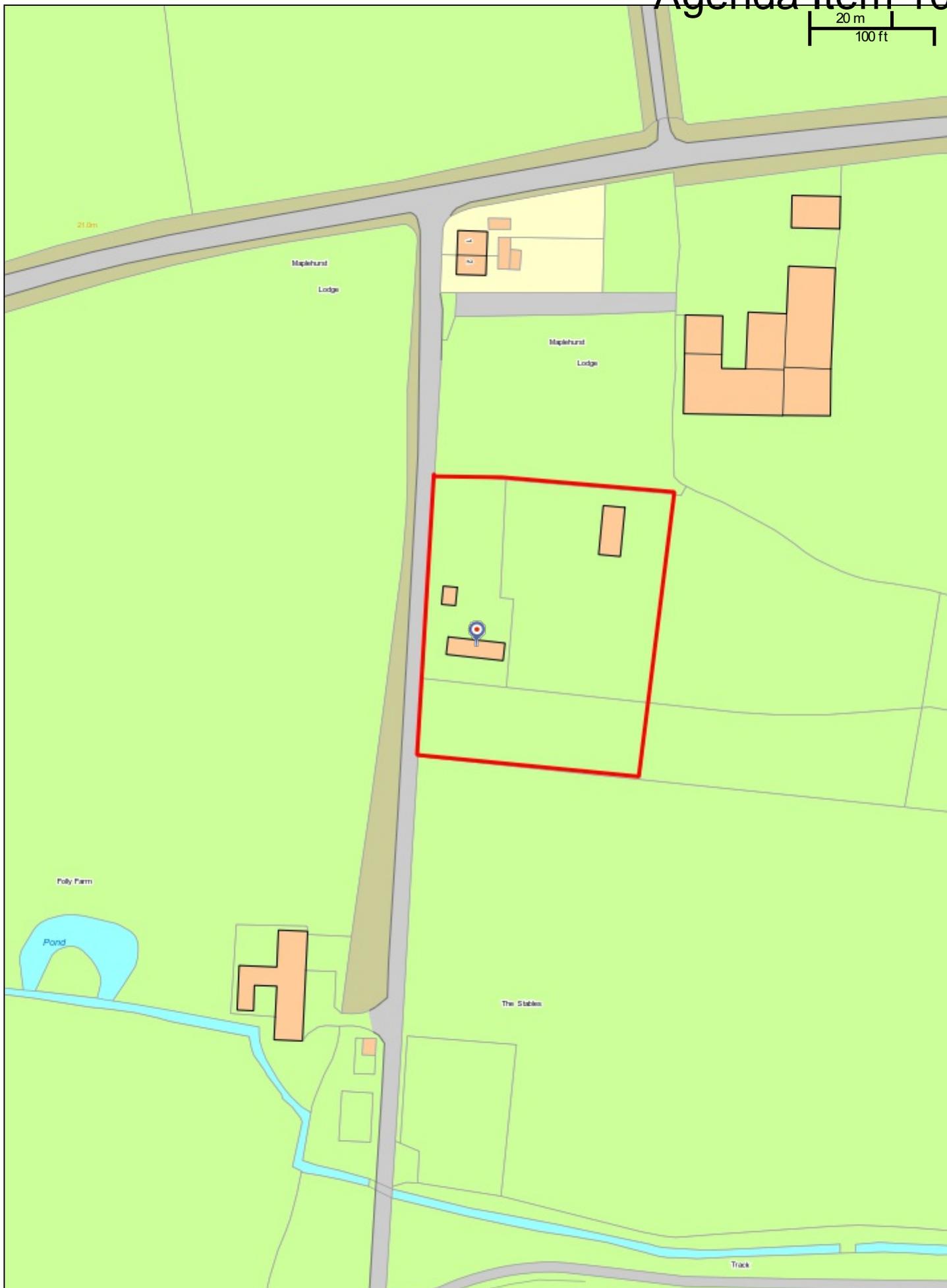
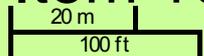
site until a written programme and specification for the work has been submitted to and approved by the local planning authority;

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

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<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.

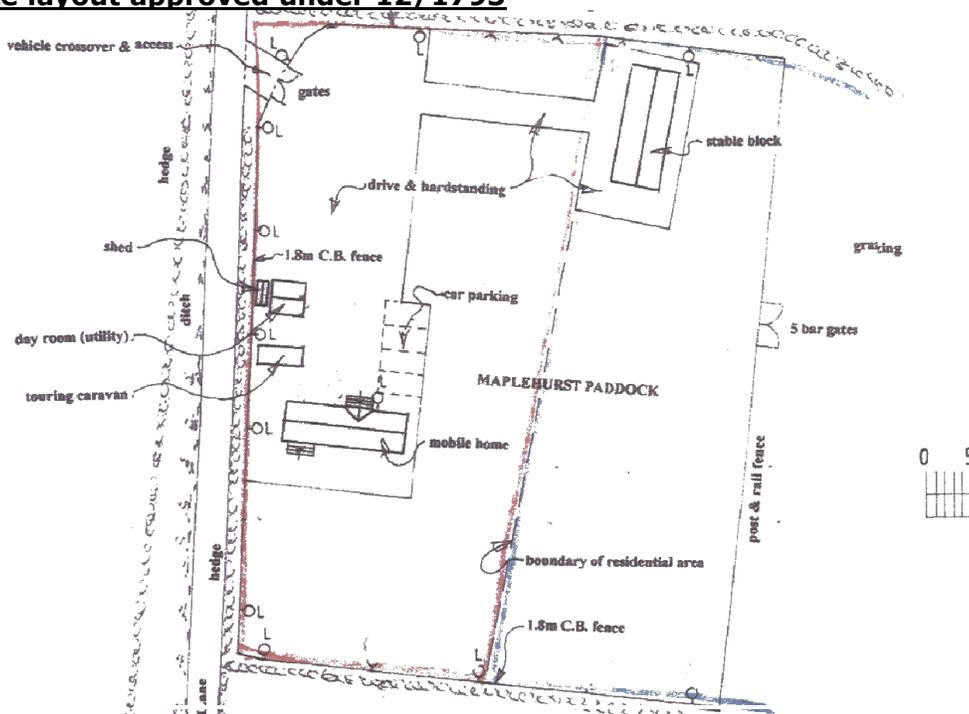
17/502997/FULL - Removal of condition 2 of previously approved application MA/12/1793 (An application for permanent use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables- Refused 12/10/2017 on the following grounds: Notwithstanding frontage landscaping 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 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**

<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 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

Planning Committee

24 September 2020

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

**Maplehurst G & T Sites**  
 Key:  
 SC – Static Caravan  
 T – Tourer  
 DR – Day Room

The Oaks  
 Approved:  
 13/1732  
 (Appeal Allowed)  
 1SC/1T

Blossom Lodge  
 Refused:  
 18/500210/FULL  
 (Appeal Allowed)  
 Approved:  
 14/503810/FULL  
 (SoS decision)  
 19/502532/SUB  
 1SC/1T

Acorns  
 Approved:  
 15/501528/FULL  
 17/504081/FULL  
 18/500555/SUB  
 1SC/1T

Maplehurst Paddock  
 Pending:  
 20/502182/FULL  
 Approved:  
 09/0504  
 10/0903  
 12/1793  
 14/0521  
 Refused:  
 05/0241  
 08/2276  
 15/503360/FULL  
 17/502997/FULL (Appeal Allowed)  
 ENF/9045 (Appeal Allowed)  
 1SC/1T/1DR/Stables

The Stables  
 Refused:  
 13/1713  
 Approved:  
 10/0157  
 12/1619  
 Withdrawn:  
 09/1565  
 2SC/1T

Perfect Place  
 Refused:  
 15/506635/SUB  
 17/504433/FULL  
 (Appeal Allowed)  
 Approved:  
 09/1767  
 13/0466  
 18/504157/FULL  
 Withdrawn:  
 15/506646/FULL  
 4SC/4T/4DR

Three Sons  
 Pending:  
 20/503700/FULL  
 Refused:  
 15/510210/FULL  
 18/503844/FULL  
 Permitted:  
 19/501650/FULL  
 19/505270/SUB  
 Withdrawn:  
 17/506097/FULL  
 1SC/1T

Parkwood Stables  
 Refused:  
 08/0433  
 08/1726  
 12/0557 (Appeal Allowed)  
 13/1633  
 Approved:  
 07/0837  
 15/510660/FULL  
 17/504393/SUB  
 18/504954/SUB  
 Returned:  
 15/506836/FULL  
 2SC/2T/1DR/Stables

Delilah Lodge  
 Approved:  
 15/501537/FULL  
 18/500557/SUB  
 © 2018 Google  
 1SC/1T

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# 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**

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**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.

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## 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**

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

- 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

### Site Curtilage

Paragraph 6.28 of the officer assessment for the application at Maplehurst indicates that the site curtilage would not increase to facilitate the additional caravans.

Upon further review of previously permitted applications the originally permitted curtilage of the site is as detailed in the below image (red annotation added by case officer), and in fact the development would result in an expansion of the site curtilage.

#### Proposed site layout

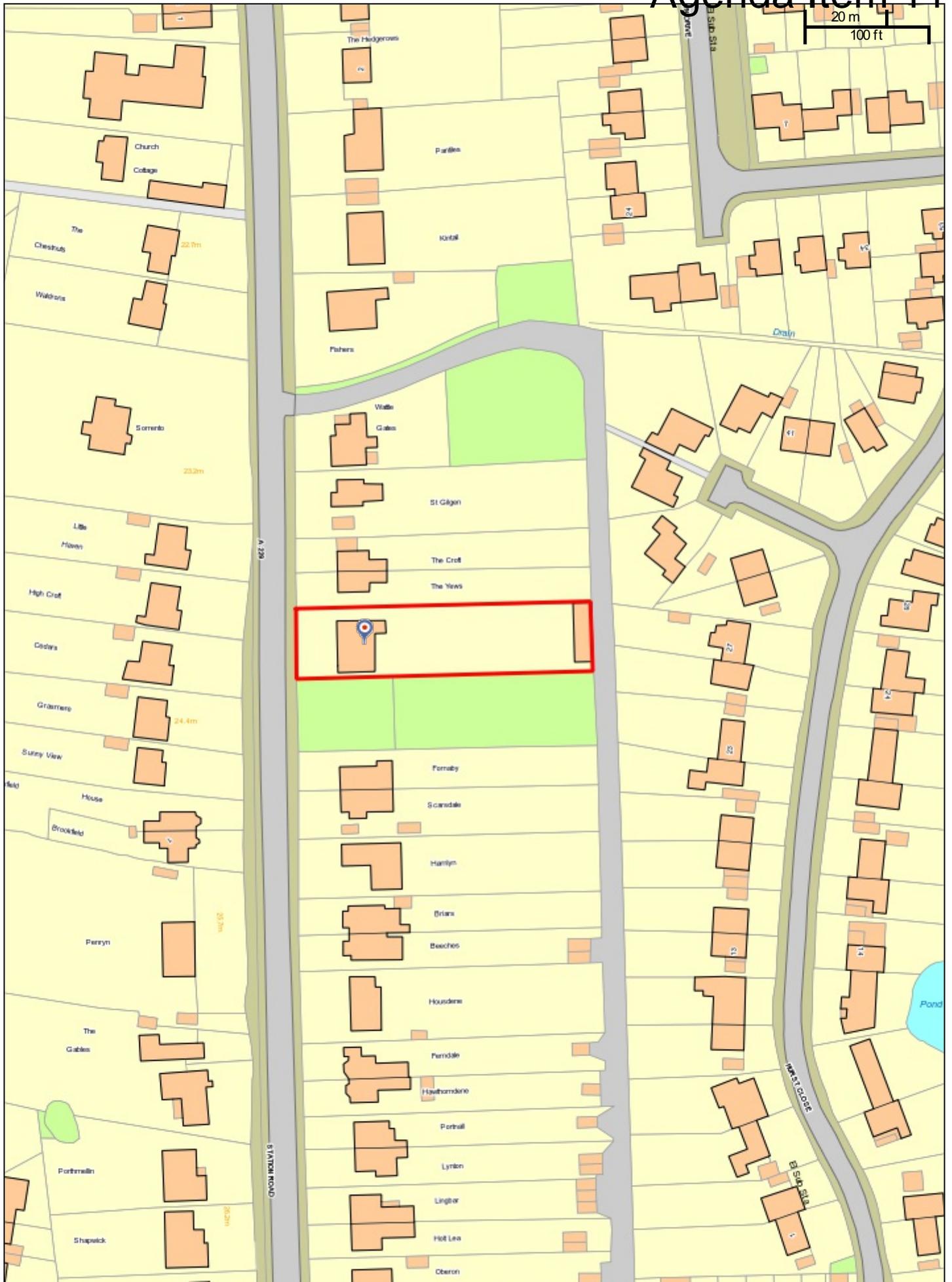


The proposed site layout would extend the curtilage of the site up to the fence which separates the site from the paddock to the east of the application site.

It is not considered that the above changes the considerations within the officer report, in terms of the developments character and appearance and its landscape impact. Site photos show that land between the permitted site and the paddock is a maintained area, and not possible to distinguish between it and

the existing curtilage. The proposal is not projecting into the paddock or the wider site to the east which are the 'wilder' portions of the land within the applicant's ownership that the Local Planning Authority would wish to preserve.

Officer recommendation remains unchanged



20/502770/FULL - Holman House, Station Road, Staplehurst, TN12 0QQ

Scale: 1:1250

Printed on: 15/9/2020 at 10:12 AM by JoannaW



<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 +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.

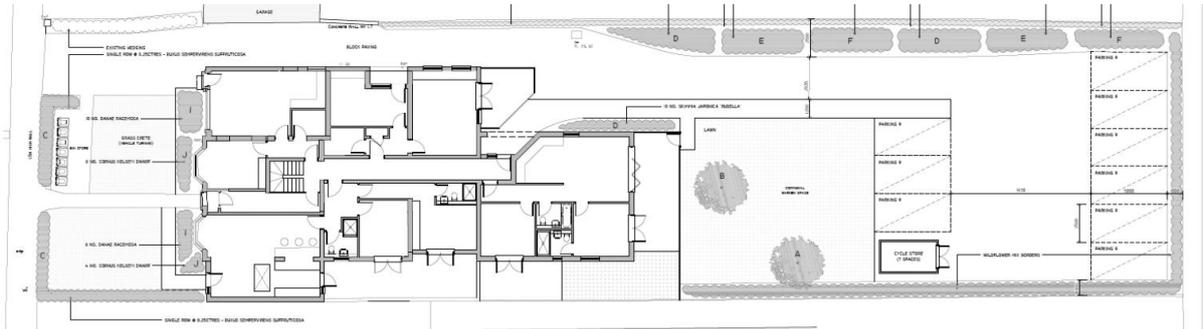


2.08 To assist Members in assessing the latest 2020 application against the previous 2018 approval, the proposed site layout and relevant elevations follow, set alongside the previously approved scheme.

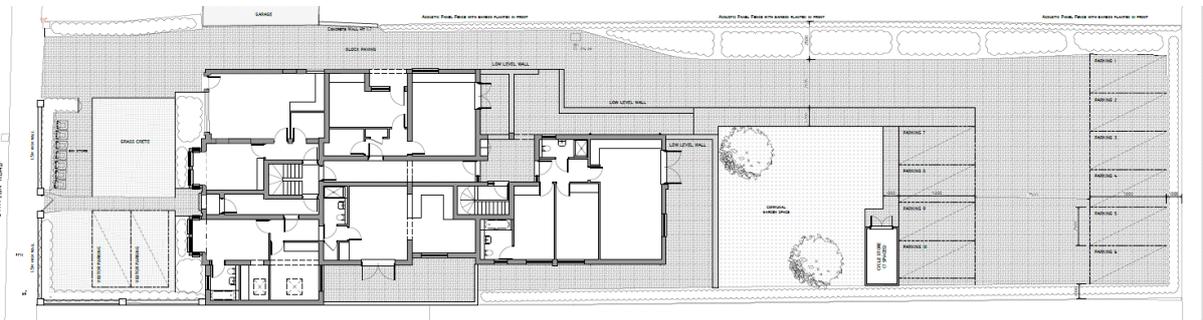
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Site Layout (NTS)

2018 Permission



2020 Application



Street Scene

2018



2020



Front Elevation



PROPOSED FRONT ELEVATION  
1:100

2018

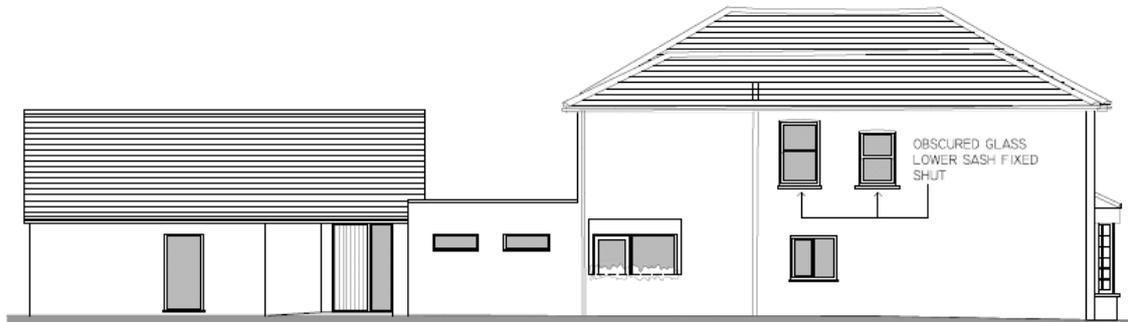


PROPOSED FRONT ELEVATION  
1:100

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

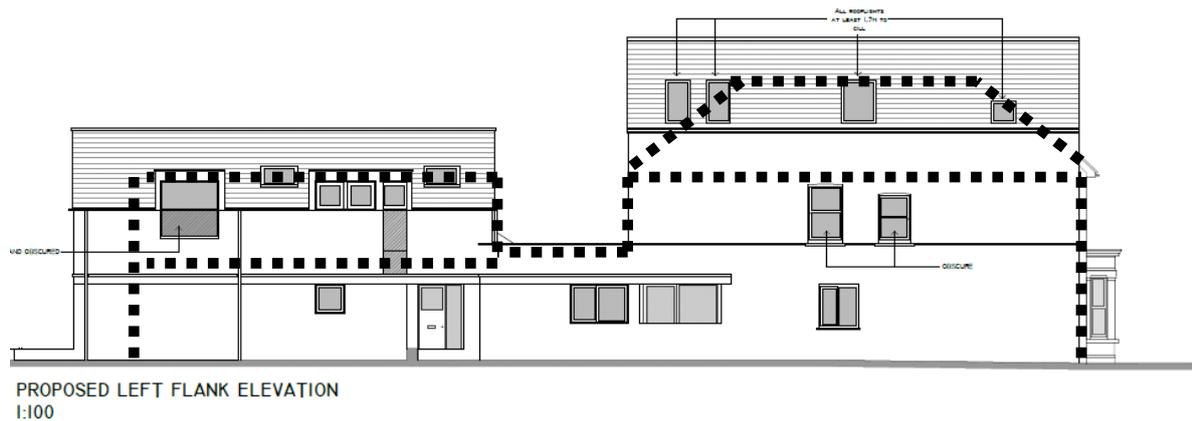


The Site



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.

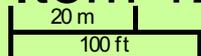
- 12 The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (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



<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		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION</b></p> <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> 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 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).

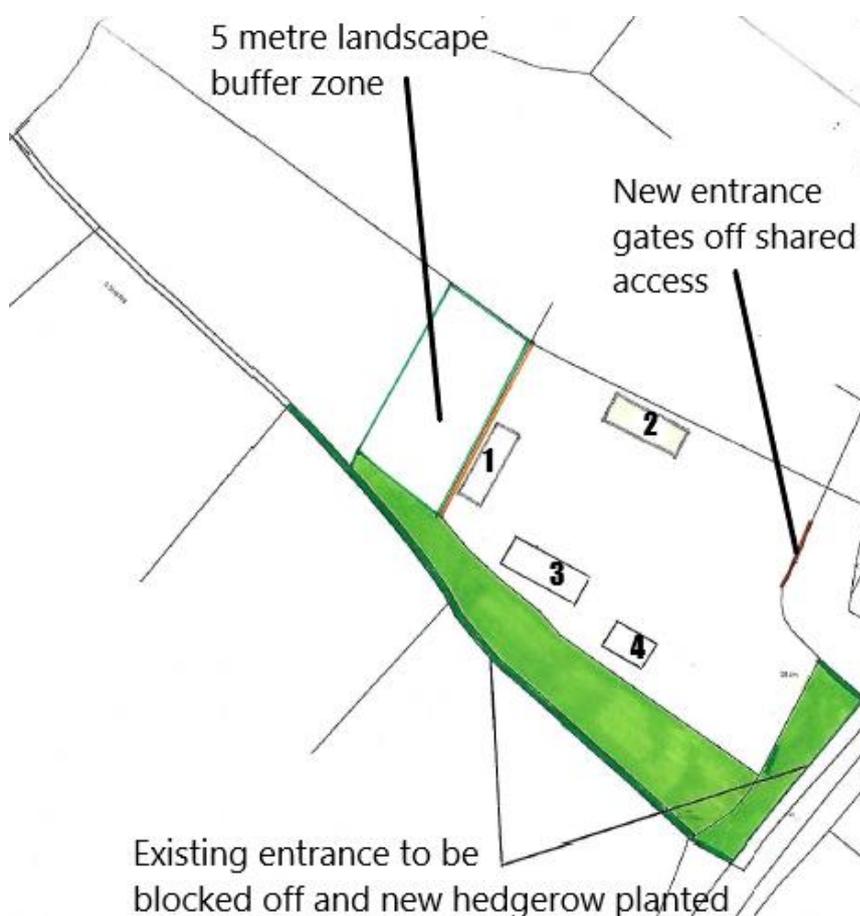
**MAIN REPORT**

**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 | 4. Retained existing utility |
| 2. Removed existing mobile | 5. Retained existing mobile  |
| 3. Removed 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
<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. 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.

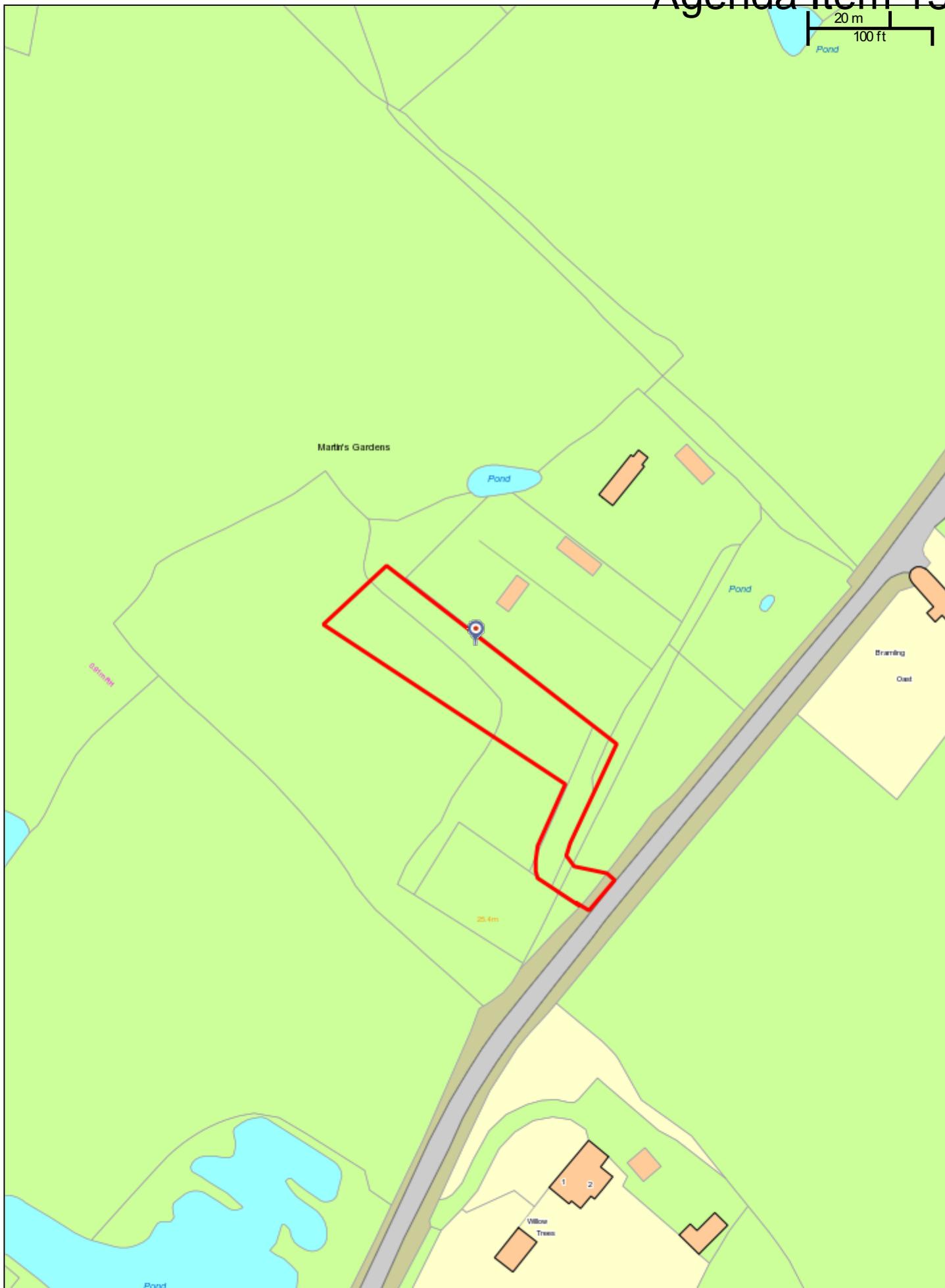
- 7) No bonfires or incineration of rubbish or organic material or vegetation shall take place on the site.

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

Printed on: 14/9/2020 at 13:12 PM by JoannaW

<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> 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.  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.  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.  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. 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.		
<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**

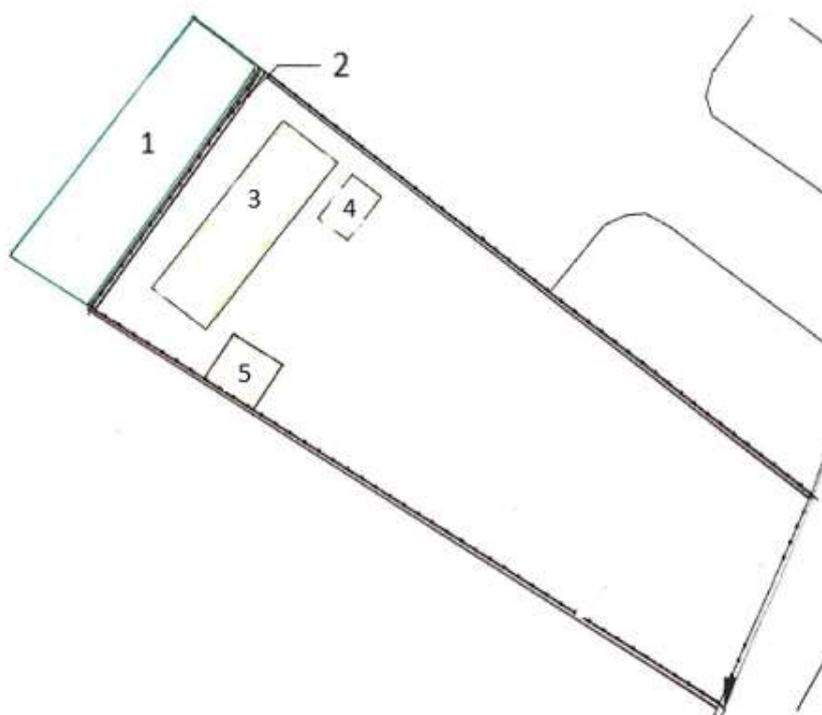
- 1.01 The site is located off the north-western side of Lenham Road and comprises the third plot from the south-western end of a row of six Gypsy sites running along the north-western side of Lenham Road.
- 1.02 The plot is accessed from a shared accessway off Lenham Road which also serves four of the 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**



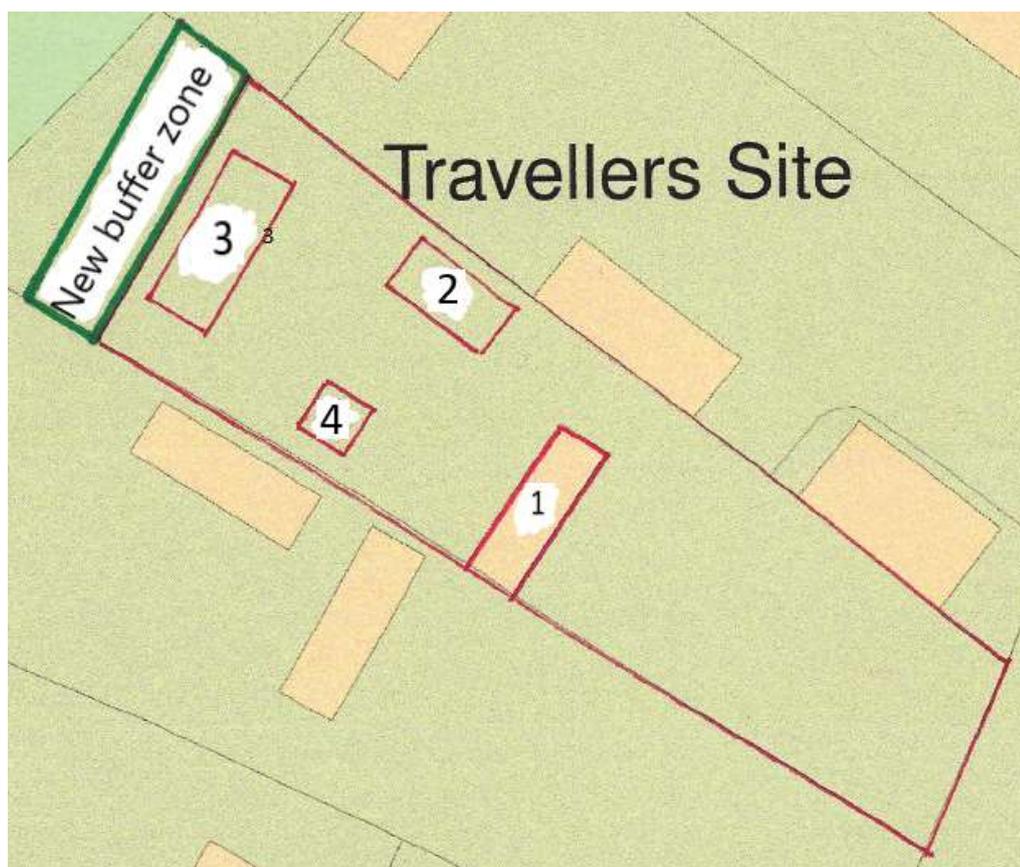
**1.5 metre landscape buffer zone**  
**2.New boarded fence**  
**3.New mobile home**

**4.Utility**  
**5.Shed**

- 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**

<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>

6.06 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**

<b>Type of consents</b>	<b>No. of pitches</b>
<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.

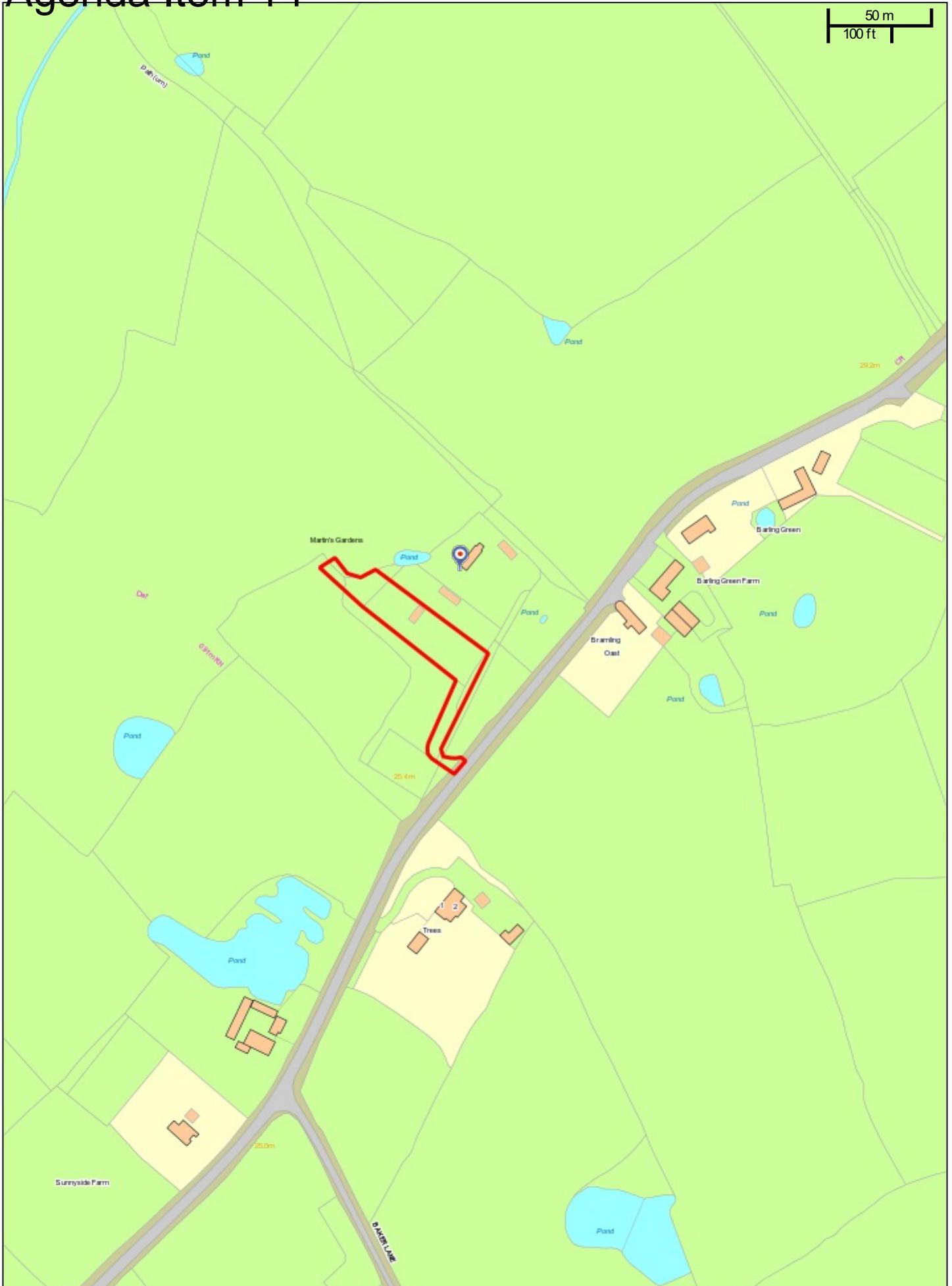
- 6) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority.  
Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and 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 14



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**

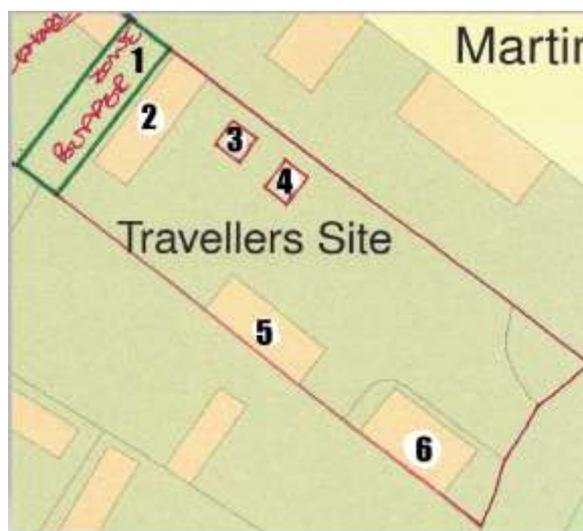
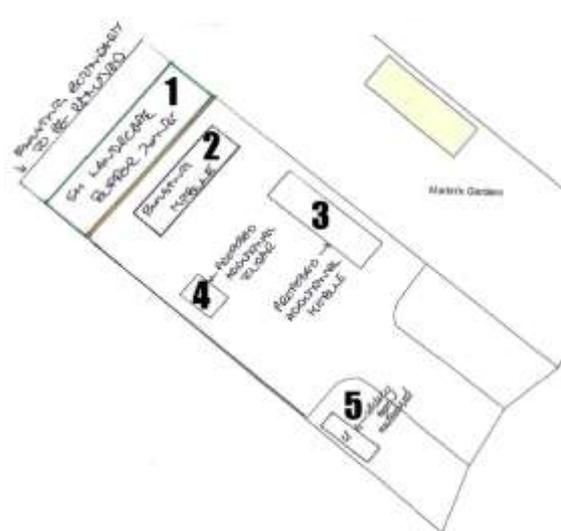
1.01 The site is located off the north-western side of Lenham Road and comprises the fourth plot from the south-western end of a row of six Gypsy sites running along the north-western side of Lenham Road known as 1 Martins Gardens, 2 Martins Gardens, 3 Martins Gardens, 5 Martins Gardens, 6 Martins Gardens 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'.



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
<b>Total Oct 2011 to March 2031</b>	<b>187</b>

- 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



20/502136/FULL - 4 Martins Gardens, Lenham Road, Headcorn, Kent, TN27 9LE

Scale: 1:1250

Printed on: 14/9/2020 at 14:02 PM by JoannaW



<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		
<p><b>SUMMARY OF REASONS FOR RECOMMENDATION</b></p> <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> 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 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

# Agenda Item 16

## **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)