

REPORT SUMMARY

REFERENCE NO - 14/0668		
APPLICATION PROPOSAL Retrospective application for the change of use of land from agricultural to residential involving the stationing of one mobile home and the laying of hard surfacing		
ADDRESS Oaklands, Gravelly Bottom Road, Kingswood, Maidstone, Kent, ME17 3NS		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.		
REASON FOR REFERRAL TO COMMITTEE It is contrary to views expressed by Broomfield & Kingswood Parish Council		
WARD Leeds	PARISH/TOWN COUNCIL Broomfield & Kingswood	APPLICANT Mr Eldridge AGENT
DECISION DUE DATE 22/07/14	PUBLICITY EXPIRY DATE 22/07/14	OFFICER SITE VISIT DATE Initially 18/7/14

SPECIAL FACTORS

The Committee of 27/11/2015 considered an urgent update report from the Head of Planning and Development recommending that this application be withdrawn from that agenda. It was noted that Officers needed to investigate information received late the previous day regarding the gypsy status of the applicant.

It was resolved that agreement be given to the withdrawal of application MA/14/0668 from the agenda to enable the Officers to investigate information received relating to the applicant's submissions on gypsy status.

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

There is planning application history and enforcement investigation history concerning the application site and also application history from when it fell under a wider parcel of land. There is also a history of formal enforcement action relating to this wider land including the site.

Most recently, in April 2014, the stationing of a caravan and the construction of areas of hardstanding on the land resulted in enforcement investigations which led to the subject application.

Under MA/11/0224 a full application was submitted for a change of use of the application site from agricultural to residential and the erection of a four bedroom dwelling. This was withdrawn in 2011.

MA/07/1024 (application site only) had been previously refused for the demolition of four agricultural sheds and the formation of a driveway to form access to the rear (south) of the site and construction of barn style chalet dwelling with associated triple garage. This was refused in 2007 on the grounds that the development would be visually prominent and would represent an unjustified addition to sporadic development in the countryside, harmful to its character and appearance.

MA/03/2066 (application site only) applied for the use of the land for the keeping of horses and the erection of a stable block. This was refused in 2003 as it was considered there would be inadequate supervision/security arrangements for the horses as the application site is physically remote from the owner's dwelling.

MA/94/1196 (application site only) applied for the erection of a single storey building to provide three stables, foodstore and agricultural store. This was refused in 1994 on the grounds that it would be intrusive development detrimental to visual amenity and that there was no proven agricultural need.

MA/94/0389 (application site only) applied for a certificate of lawful development for the use of the land for leisure purposes and the stationing of two containers. This was refused in 1994 for the reasons that the use was not immune and the containers were not permitted development.

MA/92/1239 (application site only) was an outline application for the erection of

a bungalow which was refused in 1992 on the grounds that it would be outside any built up area without any exception, and it would be visually prominent and intrusive.

Under MA/91/0514 (majority of application site) permission was conditionally granted in 1991 for a block of stables with a fodder store.

MA/89/0512 (majority of application site) applied for a stables, office and bungalow, and this was refused in 1989 on the grounds that it would be outside any built up area without any exception, and that it would be visually obtrusive.

MA/87/0389 (majority of application site) was for a dwelling. This was refused in 1987 for the reasons that the site was in a rural area intended to remain undisturbed and that the use would therefore be undesirable; that there was no agricultural need; that it would be detrimental to visual amenity; that the new access would be onto a classified road; and that the approach road was unsuitable.

Under MA/84/0681 (majority of application site) permission was granted in 1984 for the demolition of agricultural sheds and erection of a double stable block with ancillary storage. However, it appears this permission was never implemented.

In 1982 an enforcement notice was served against the change of use of land known as Stonecrop Farm, which at that time included land now forming the application site, to a mixed use for the purposes of a caravan site; for the storage of caravans; for the storage, spraying, repair and maintenance of motor vehicles and motor vehicle parts; and for the purposes of a workshop for the manufacture and storage of timber items. This notice was issued on the grounds that the site was in a rural area intended to remain undisturbed, and that the uses were intrusive and undesirable for the countryside and therefore detrimental to the amenities of the area. It appears this notice was complied with.

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site is within the countryside. It is on the south side of the rural Gravelly Bottom Road which provides links to the villages of Kingswood

and Langley and the primary roads to Maidstone. There is sporadic ribbon development on both sides of Gravelly Bottom Road, mostly on large plots, and a mix of uses including agricultural, commercial and residential.

- 1.02 The application site itself was previously the north-west part of the adjacent farm complex and land which includes a dwelling still located immediately to the east. There is also a dwelling on the other side of the public footpath KH311 which runs along the western boundary of the site. There are also three large residential plots on the other side of Gravelly Bottom Road. Generally tree cover is heavy in this area of the road. There is ancient woodland at the rear of the site. There is also tree cover generally, some very mature, in and around the site. The mobile home applied for is on site in the position shown on the plans in the south-east part of the site, and the roadway and hardsurfacing also subject to the application have been constructed. There is close-boarded fencing on the rear and front boundaries of the site, and also in double-gate form on the front. The rear fencing is part of the neighbouring site and does not appear to form part of the application, although the front element is described in the submitted Design & Access Statement. The site rises gently towards the rear.

2.0 PROPOSAL

- 2.01 The application is retrospective for the use of land for the stationing of a mobile home for the applicant's gypsy/traveller family, with hardsurfacing for a driveway and parking, and with alterations to the existing access from Gravelly Bottom Road including the erection of fencing and gates. A septic tank and soakaway are also included. The application site is shown on the submitted details as around 100 metres across the frontage and around 80 metres at its deepest, which is a fair representation of the actual size of the plot.
- 2.02 The mobile home is shown on the submitted details to be fairly central on the plot and that is a fair representation of where it is actually positioned, with the fairly limited hardsurfacing around it also as shown. The driveway is also as shown on the plans, leading direct to the mobile home from the highway access. The septic tank is shown on the plans as being close to the north-west of the mobile home.
- 2.03 Amended details have been submitted that show existing trees and shrubbery on the site that are to be retained and the front fencing and gates around the entrance.
- 2.04 Additional details have also been submitted in the form of a Design & Access Statement; Ecological Survey; and Tree Survey.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan 2000: ENV6, ENV28

:

4.0 LOCAL REPRESENTATIONS

4.01 **Letters of objection** were originally received from **eleven** local residents. **Three** of these were in respect of both the original and amended/additional details and **one** followed the amended/additional details submitted. The following summarises all the grounds of objection raised:-

- It is a rural location
- Have doubts that ecology suggestions in survey can be carried out
- Is a retrospective application, showing disregard for planning regulations
- Hardsurfacing for parking one car is applied for but there is two cars on site
- There is previous enforcement still active against caravans on the land
- Was previously a field with a farm gate
- Clearance of trees and bushes
- Previously no drive and now a sweeping one through land and a hardstanding which is imposing and out of character for rural nature of area
- Effect on property value
- Disregard shown for habitat and biodiversity
- Gravelly Bottom Road (GBR) is actually a single track road with limited passing which is dangerous
- Access is dangerous
- Access has actually been altered by removal of hedge and is now out of character with others on GBR
- No Environmental Impact Assessment submitted despite bordering ancient woodland
- A mobile home is out of place and unsightly for this residential area
- Doubts that applicant is a gypsy, has lived in a dwelling
- Only development on GBR has been replacement of existing properties or re-use of
- Was no existing buildings on land, only an iron shed demolished in mid-1980's
- Reduction in wildlife has already occurred
- Septic tank and soakaway done without permission
- Currently no permanent mobile homes in GBR
- Potential for further gypsy development on site if permission granted
- Ample sites with vacancies nearby
- Area is grassland and woodland of historic and biodiverse significance
- Effect on outlook of other properties due to raised location of site
- Visible from public footpath
- Does not blend in with rural landscape
- Could set precedent for developments elsewhere on GBR
- Overlooking of adjacent properties

- 4.02 Since the additional information received on the nomadic lifestyle of the applicant, there have been further similar representations from **two** of the local residents.

5.0 CONSULTATIONS

- 5.01 **Broomfield & Kingswood Parish Council** have commented both on the original submissions, on the later amended/additional details submitted, and on the further information received regarding the nomadic lifestyle of the applicant. A planning expert has also latterly written on their behalf in addition.

Original submission comments: "Councillors wish this application to be refused, and wish it to be referred to the Planning Committee for the following reasons:-

- 1) The application is inaccurate
 - S6 – states that there is no proposal for a new or altered access to or from the public highway also no new or altered pedestrian access proposed to or from the public highway. The applicant has answered no but significant damage to hedgerow and agricultural land has been carried out in creating access and laying hard standing to a previously overgrown agricultural plot.
 - S13 – Councillors believe that the nature of Oaklands which borders ancient woodland will have been critically damaged by the works that have been carried out and that in all likelihood there may have been protected and priority species, important habitats or other biodiversity features and possibly features of geological conservation importance, that have received critical damage and harm.
 - S14 – The site has been redundant for many years as previous enforcement notices has prevented any activity.
 - S15 – Trees and hedges have already been removed and are having a negative influence for neighbouring properties and have already affected the character of the local landscape.
- 2) The applicants supporting statement says
 - a) The site is not within any protected area of countryside when the property is surrounded on two sides by ancient woodland.
 - b) There has not been any additional developments in Gravelly Bottom Road for several years, only extensions and improvements or rebuilds.
 - c) Siting a caravan as a permanent residence in a rural area and in full view of the highway, where other dwellings are scattered along the road and most not visible from the road, would be detrimental to the general aesthetics of the area.
 - d) Gravelly Bottom Road is a single track road with passing places. There have been many road traffic accidents at exactly the location of Oaklands and Oak Tree Farm (an immediate neighbour) in recent years due to excessive speed on the blind bend. It is a busy road as one of the main accesses to the village of Kingswood.

- 3) Councillors consider that giving permission for this application will be setting a dangerous precedent. The applicant admitted to owning the land since last year, thereby allowing plenty of time for submission of a planning application before work had commenced which can only suggest a complete intention at flouting of planning regulations”.

Amended/additional details comments: “Councillors reviewed the amended application at a planning meeting held on 1st September and concluded that the application should be **refused** for the following additional reasons:-

1. Application states that the applicant is claiming gypsy status with no evidence to support the statement.
2. There has been no robust evidence base to establish need for a traveller site in this location.
3. Ecology report states that the site is considered to be of moderate to high ecological value based on the habitats on site and the wooded areas in close proximity. Recent works have created disturbance with the creation of hard standings etc., which will prevent the return of indigenous species.
4. MBC has recently reviewed planning policy for gypsy and traveller sites as part of their emerging Local Plan and with agreement with this parish MBC has already concluded that there are too many traveller sites within the parish and in the immediate vicinity, therefore no more sites would be required or needed. MBC have currently identified appropriate sites for development for travellers which has not included Broomfield & Kingswood
5. Broomfield & Kingwood’s emerging Neighbourhood Plan has also recognized that there are sufficient traveller sites within the parish and in the immediate surrounding parishes and has therefore not included additional traveller sites within the plan. Nine sites already been identified in situ which are all of significant sizes
6. “Planning decisions must be made in accordance with the development plan.... Identifies (allocates) sites for development..... aims to protect landscape areas” Maidstone Borough Local Plan training workshop - 27/08/2014
7. Government’s policy aim – to ensure fair and effective provision of authorized sites for travellers to facilitate the traditional and nomadic way of life..... whilst respecting the interests of the settled community.
8. Planning policy for traveller sites – make an assessment of needs, work collaboratively, identification of land for sites, protect the green belt, reduce unauthorized development & encampments whilst protecting local amenities and environment.
9. The Parish Council wish to see the site returned to its prior condition

Councillors wish this application to be reported to the Planning Committee”

Comments made in respect of further information received on the nomadic lifestyle of the applicant; “With reference to planning application 14/0668 – Oaklands, Gravelly Bottom Road, Kingswood and the additional information that has been provided by the application in response to your request to clarify his traveller status.

Councillors remain concerned that the information previously provided by the applicant has only been provided to mislead to enable planning permission to be granted. As you are already aware sufficient information has been provided to adequately determine that the applicant has never lived a traveller lifestyle but only ever lived in settled accommodation as both adult and a minor.

The additional information now supplemented by the applicants agent on the 23rd November in that "Now that he has reconciled his relationship with his former wife he has agreed to give his youngest son a more permanent home for the duration of his education", this latest information can also be considered to be used to mislead officers in their determination of this application as it has been publicly advertised that the applicants ex-wife is now engaged to be married (and not to the applicant) also Councillors have been provided with information of a court order taken out through the Medway courts preventing the applicant having contact with the son, reference ME13P01187 this court order has not been rescinded.

For all the previous objections and additionally the reasons outlined above Councillors still wish this application to be refused and the site returned to its previous agricultural nature at the earliest".

The planning expert appointed recently on their behalf has also made the following comments: "I have been retained by Broomfield with Kingswood Parish Council (BKPC) to represent their views with regard to the application.

The first issue which has to be dealt with is whether or not the applicant is indeed a member of the travelling community and therefore eligible to have his application considered under planning policies for gypsies and travellers. Recently you will have received an email from Gail Gosden, BKPC's parish clerk, which appears to undermine the truth of the applicant's claims in this respect. Therefore it is important that MBC undertakes a thorough investigation.

According to the Planning and Compulsory Purchase Act 2004, s.38: If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, *the determination must be made in accordance with the plan unless material considerations indicate otherwise.*

Clearly the Maidstone Local Plan 2000 must be considered to be a historic document. The Draft Local Plan 2014 does not cite Oaklands in the list of potential sites under policy GT1. It does admit that there is a shortfall in provision. However, when BKPC were in discussions with MBC over their local plan it was agreed that no more gypsy and travellers sites would be allocated within the parish because there are already more than enough. As an experienced planning officer you will know that to allow this site could set a precedent for further development in the future, given that permission runs with the land. This is true to the experience of BKPC on

other sites within the parish, and the reason why an enforcement order was imposed on the wider site, then known as Stonecrop Farm, in 1982. As a planning professional I appreciate the fact there is nothing illegal in applying for retrospective planning permission. However the applicant has shown a cavalier attitude towards the sensitivities of this site by destroying or damaging extant flora and fauna. Given the long list of refused applications of an agricultural nature on this site, it would be a derogation of duty to permit this one. I submit therefore that this application be refused. No doubt you are aware of the public concern pertaining to this matter.

- 5.02 **MBC Landscape Section** have confirmed that the Tree Condition Survey submitted is acceptable in principle. They also confirm that on the basis of this survey, and also that the application is retrospective, no objections are raised on aboricultural grounds subject to a landscape condition including the replacement hedge planting as proposed in the survey. They also confirm that they have no comments to make in respect of the additional information received on the nomadic lifestyle of the applicant.
- 5.03 **Natural England** have raised no objections to both the original and later submissions, as they advise the proposal is unlikely to affect any statutorily protected sites or landscapes , and have pointed to its published "Standing Advice" on protected species. They also confirm that they have no comments to make in respect of the additional information received on the nomadic lifestyle of the applicant.
- 5.04 **KCC Ecology** originally commented that as no ecological information had been submitted then the development has the potential to result in ecological impacts. Following the later submission of that information they then commented as follows:

"We have reviewed the ecological information which has been submitted and we require no additional information to be provided prior to determination of the planning application.

The application is for a retrospective planning application and it is very disappointing that the works were implemented prior to ecological survey being carried out. The ecological survey has detailed that the boundary and surrounding area is of moderate to high ecological value – as such it suggests that before the development works were carried out the whole site may have contained suitable habitat for protected/notable species.

The applicant is proposing to seed/turf the bare ground areas and to compensate for the loss of habitat we suggest that it is seeded with a species rich grassland seed mix and the areas of grassland adjacent to the scrub/woodland is managed as a wild flower meadow.

Details of how the site will be managed must be submitted for comments as a condition of planning permission, if granted.

Enhancements - One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around

developments should be encouraged". We recommend that bat and bird boxes (as detailed within the ecological survey) are erected within the boundary of the site."

They have also added that they have no comments to make on the additional information received on the nomadic lifestyle of the applicant.

- 5.05 **KCC Highways** comment that "the proposal is to use an existing access onto Gravelly Bottom Road which is of a sufficient width and provides good visibility. The proposal will not significantly increase traffic along Gravelly Bottom Road. The previous use of the site was agricultural, therefore the change of use will result in smaller vehicles using the site, which will increase highway safety. There is sufficient parking and turning space within the site to allow vehicles to enter and leave in a forward gear. For these reasons there would be no ground for an objection with regards to highway concerns, subject to conditions". These conditions concern the access and its gradient; the set back distance of the of gates; the retention of the parking space; and the bound surface.

6.0 Principle of Development

- 6.01 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the MBWLP relates to development in the countryside stating that;

"Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers."

- 6.02 Policy ENV28 then outlines the types of development that can be permitted. This does not include gypsy development as this was previously covered under housing policy H36 of the MBWLP but this is not a 'saved' policy. Policy ENV34 (Special Landscape Area) affords greater protection of is designed to control the spread of inappropriate development.

- 6.03 A key consideration in the determination of this application is central Government guidance contained with 'Planning Policy for Traveller Sites' (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

- 6.04 In determining whether persons are "gypsies and travellers" for the purposes of the PPTS, consideration should be given to the following:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- 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.

6.05 Though work on the emerging local plan is progressing as yet there are no adopted policies responding to the provision of gypsy sites. Local Authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. To this end Maidstone Borough Council, in partnership with Sevenoaks District Council procured Salford University Housing Unit to carry out a revised Gypsy and Traveller Accommodation Assessment (GTAA). Whilst this work is set to be revisited in light of the changes to the PPTS, at this time it has not commenced and this information does remain the current need figure. The GTAA concluded the following need for pitches over the remaining Local Plan period:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches
Total: Oct 2011 – March 2031	-	187 pitches

6.06 These figures were agreed by Cabinet on the 13th March 2013 as the pitch target and were included in the consultation version of the Local Plan. The current GTAA provides the best evidence of needs available at this point of time and the decision needs to be based on evidence at the time of the decision.

6.07 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004). Draft Policy DM26 of the Regulation 18 version of the Draft Local Plan accepts that this type of accommodation can be provided in the countryside provided that certain criterion is met. The Draft Plan also states that the Borough's need for gypsy and traveller pitches will be addressed through the granting of permanent planning permissions and through the allocation of sites. The timetable for adoption is currently for the latter half of 2017.

6.08 Issues of need are dealt with below but in terms of broad principles Development Plan Policy and Central Government Guidance allows for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

7.0 Need for Gypsy sites

7.01 The PPTS gives guidance on how gypsy accommodation should be achieved, including the requirement to assess need.

7.02 As stated above, the projection accommodation requirement is as follows:

Oct 2011 – March 2016	-	105 pitches
April 2016 – March 2021	-	25 pitches
April 2021 – March 2026	-	27 pitches
April 2026 – March 2031	-	30 pitches

Total: Oct 2011 – March 2031 - 187 pitches

7.03 Taking into account this time period, since 1st October 2011 the following permissions for pitches have been granted (net):

- 79 Permanent non-personal permissions
- 10 Permanent personal permissions
- 3 Temporary non-personal permissions
- 33 Temporary personal permissions

7.04 Therefore a net total of 89 permanent pitches have been granted since 1st October 2011. As such a shortfall of 17 pitches remains outstanding.

7.05 It must be noted that the requirement for 105 pitches in the initial 5 year period includes need such as temporary consents that are yet to expire (but will before the end of March 2016) and household formation. This explains why the need figure appears so high in the first 5 years.

8.0 Gypsy Status

8.01 Annex 1 of the PPTS defines gypsies and travellers as:-

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

8.02 It has been raised in representations made that there should be doubts over the gypsy status of the applicant as it is thought that he has lived in housing. It is a key consideration whether the applicant, as the intended occupant, complies with the definition of a gypsy and has a site based housing need. In this respect, it is claimed in the submitted documents that the applicant Mr Eldridge is of gypsy descent and from the gypsy community. The below information has been provided to back this up.

8.03 The applicants' grandmother was a Romany gypsy married to his travelling gypsy grandfather. They both came from the South Wales area and travelled all over South & North Wales but were primary based in Herefordshire, making a living by selling fine lace and paper flowers, which my grandmother made, as well as working on farms. Between them they had ten children of which seven of them continued the travelling lifestyle with the remaining three marrying non gypsy travellers. The applicants' mother also married a travelling man who was not a gypsy but took that way of life, and travelled with the family until the grandparents died. They then travelled with the rest of the family and eventually some of the family based themselves in Kent & some in Hampshire. They lived on various sites, but mainly farmland picking hops and fruit, while the men concentrated on wood cutting and tool sharpening. Throughout the

summer they shared a site in Watlingbury, Kent with the Smith family, and yearly they would meet up at Appleby where they would join relatives from Wales and Hampshire.

- 8.04 The applicant states that he was born in Pembury, Kent, at a time when his parents were based on a farm in East Malling, Kent. He states that he lived in two trailers with his family until the age of 20 years, travelling throughout Kent but mainly based in Medway at Greenacres. He then married at the age of 21 and continued to live in a trailer with his non traveller wife until the age of 23, by which time they had two children. They decided that it would be better to settle in a house for the benefit of the children's education and to give them stability, and they went on to have a further two children. He then returned to the travelling lifestyle four years ago when the marriage broke down and lived on his brother's land in a trailer in Northampton. He then returned to Kent and lived on a site in Cuxton, Kent, before moving onto a plot owned by another travelling family until the purchase of the application site. Two of his children have taken the travelling lifestyle, his daughter is currently living on a site in Marden, Kent with another travelling family by the name of Beany, and his son is on a site in Hampshire.
- 8.05 The applicant has confirmed that he has now temporarily stopped travelling in order to provide a home for his son during his secondary education at a school nearby to the application site, and that thereafter his intention is to once again adopt the nomadic life.
- 8.06 From this I consider there is sufficient evidence that the applicant and intended occupant Mr David Eldridge is from the travelling community, that he re-commenced that lifestyle around what would now be five years ago, and that he has now again temporarily given up that lifestyle for the sake of his son's education. He therefore complies with the definition of a gypsy as outlined in the latest Government guidance in Planning Policy for traveller sites.

9.0 Visual Impact

- 9.01 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but goes on to state that where sites are in rural areas, considerations are that sites do not dominate the nearest settled community and do not place undue pressure on local infrastructure. No specific reference to landscape impact is outlined. However, this is addressed in the NPPF, and also clearly under Local Plan policy ENV28 which seeks to prevent harm to the character and appearance of the countryside.
- 9.02 The application site is largely screened from Gravelly Bottom Road by the dense, and in places mature, tree cover and shrubbery both around the frontage and within the site. The mobile home itself is also set back some 40 metres into the site and therefore also benefits even further from tree and shrub cover within the site, despite being in a slightly elevated position in comparison to the frontage and highway. Further, the tree and shrub cover on the west boundary of the site with the adjacent public

footpath also result in a good screen from that direction. There is also good tree cover provided by the woodland to the rear, and trees and planting around the boundary with the residential property of Stonecrop to the east. The front fence and gates included in the application, whilst being minimalistic, also help to screen, as does fencing around the rear of the site. The hardstanding is also considered minimal in the context of the size of the site. I therefore consider this is not visually harmful development to the surrounding area and landscape, and that the level of harm is low to the character and appearance of the countryside. The development is only visible from short range views when next to site. Nonetheless, boundary treatment and landscaping conditions should still be imposed to enhance and secure the appearance of these enclosures, secure the existing trees and planting; and also required planting around those enclosures. This would ensure further softening/screening of the development, and would also define the curtilage and what land/planting is in the applicants' control.

10.0 Residential amenity

10.01 There are residential dwellings either side of the application site, however, the tree and shrub screens, in places dense, on and around both side boundaries mean that there is no overlooking resulting either to or from the application development. The distances between either of these dwellings and the application mobile home are, in any case, at least some 50 metres. I do not consider there to be any significant impact on their residential amenities.

11.0 Highway safety implications

11.01 The access to the site is from Gravelly Bottom Road. It has been raised in representations made that this is a single track road with limited passing that is dangerous. However, it is not considered that the utilisation of this existing access with alterations for this use leads to any further detriment to highway safety creation. Any increase in traffic that results from this development would be minimal. The gates are also set back adequately from the highway. Appropriate conditions can also secure this matter. Indeed, Kent Highways have raised no objections subject to suggested conditions concerning the access, and I agree with those they suggest in respect of the "set back" distance of the gates and the bound surface.

12.0 Landscape and biodiversity implications

12.01 One of the principles of the National Planning Policy Framework is that *"opportunities to incorporate biodiversity in and around developments should be encouraged"*.

12.02 In terms of any impact on ecology, the applicant is proposing to seed/turf the bare ground areas. To compensate for the loss of habitat, conditions can therefore ensure that it is seeded with a species rich grassland seed mix, and the areas of grassland adjacent to the scrub/woodland are managed as a wild flower meadow. Details of how the site will be managed must also be submitted through condition. The bat and bird

boxes detailed within the ecological survey to be erected within the boundary of the site can also be secured by condition.

12.03 No objections have been raised by KCC on the grounds that that there would be any impact on the ancient woodland. This is, in any case, separated from the application site by public footpath KH311. The built development on site is also some 30 metres distance from the ancient woodland. It is also intended through condition to secure significant landscaping in the back part of the site to ensure a buffer zone between the use and the ancient woodland. This will ensure there will be no negative impact on the woodland.

12.04 The Tree Condition Survey submitted is acceptable in principle. On the basis of this survey, and as the application is retrospective, no objections are raised on aboricultural grounds subject to a landscape condition including the replacement hedge planting as proposed in the survey.

12.05 A landscaping scheme will also be ensured by way of condition to ensure new planting will be native species.

13.0 Other considerations

13.01 There are other gypsy sites in the area and this has been raised in objections. Guidance in Planning Policy for traveller sites states that sites should not dominate the nearest settled community. I consider that this site, when combined with other gypsy sites in the vicinity, would not dominate the settled community.

13.02 Although it is indicated that foul sewage would be dealt with by a septic tank, no detail other than its location and a drain run has been submitted. A condition should therefore be imposed requiring further details to be submitted. Further conditions can also secure details of the storage and disposal of waste; the provision of potable water supplies; and details of facilities for the storage of refuse.

13.03 Resultant effect on property value, being a matter raised in objections made, is not a planning concern.

13.04 Although the site is within the countryside, I do not consider that it is so remote from services to warrant a refusal on sustainability grounds. Other gypsy sites have been found to be acceptable, and are similar distances from facilities. In addition, the wider considerations of sustainability within the Planning Policy for traveller sites document include the advantages of providing a settled base for the occupiers.

13.05 I do not recommend any conditions restricting occupancy to the applicant on the basis that the site and development are considered acceptable for all the reasons above. In the case of this specific site, there is no reason to object to a permanent unrestricted use as a gypsy site.

13.06 An environmental impact assessment is also not required.

14.0 Conclusion

- 14.01 The site is located within the countryside, however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for traveller sites document.
- 14.02 The visual impact of the development is minimal. There is good tree and planting cover in and around the site and also enclosures. Nonetheless, boundary treatment and landscaping conditions should still be imposed to enhance and secure the appearance of these enclosures, secure the existing trees and planting; and also the required planting around those enclosures.
- 14.03 The application development, when combined with other gypsy sites in the vicinity, and in relation to the existing authorised development, does not dominate the settled community.
- 14.04 In the context of gypsy and traveller accommodation, the application site is considered to be in a sustainable location that is not so remote from services and facilities to justify a refusal.
- 14.05 The application development does not have any adverse impact on residential amenity.
- 14.06 The application development does not lead to any increased risk to highway safety.
- 14.07 In terms of ecological issues, appropriate conditions can compensate for the loss of habitat.
- 14.08 There are no other significant planning issues that would warrant refusal of the application.
- 14.09 I therefore consider the development is acceptable and recommend an unrestricted permanent permission.

RECOMMENDATION – GRANT Subject to the following conditions:

1. The site shall not be used as a caravan site by any persons other than gypsies or travellers, as defined in Annex 1 of the Planning Policy for Traveller Sites 2012;

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

2. No more than 1 static caravan or mobile home, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time;

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

3. No commercial activities shall take place on the land, including the storage of materials;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside and nearby properties.

4. Within 2 months of the date of this decision, details of all fencing, walling and other boundary treatments must be submitted to the Local Planning Authority for approval in writing, and the approved details shall thereafter be implemented within 2 months of the date of any subsequent approval and maintained thereafter;

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

5. Within 2 months of the date of this decision there shall be submitted to the Local Planning Authority for approval in writing a scheme of landscaping using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

- i) Details of the species, size, density and location of all new planting within the site, including the significant planting expected in the southern area of the site to provide a buffer zone between the use and the adjacent ancient woodland;

- ii) Native hedge planting along the northern boundary of the site.

Reason: In the interests of visual amenity and biodiversity.

6. 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 date of the approval; 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.

7. Details on the proposed method of foul sewage treatment, along with details regarding the provision of potable water and waste disposal, must be submitted within one month of the date of this decision for approval by the LPA. These details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should

also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

Reason: in order to meet the advice and requirements contained within the NPPF 2012.

8. Prior to the commencement of the development, details of satisfactory facilities for the storage of refuse on the site shall be submitted to and approved in writing by the LPA and the approved facilities shall be provided before the first occupation of the building(s) or land and maintained thereafter.

Reason: to protect residential amenity

9. Within 2 months of the date of this decision, details of an ecological management plan for the site must be submitted to the Local Planning Authority for approval in writing; the approved details must be fully implemented and maintained thereafter;

Reason: in the interests of ecology and biodiversity.

10. Within 2 months of the date of this decision, bat and bird boxes shall be erected within the boundary of the site as detailed in the ecological survey and thereafter maintained.

Reason: in the interests of ecology.

11. Within 1 month of the date of this decision, a bound surface shall have been created for the first 5 metres of the approved access back from the edge of the highway and thereafter maintained to the satisfaction of the LPA;

Reason: in the interests of highway safety and to meet the advice and requirements of the NPPF 2012.

12. Within 1 month of the date of this decision, the front gates must be set to open away from the highway and to be set back a minimum of 5.5 metres from the edge of the carriageway to prevent waiting on the highway.

Reason: in the interests of highway safety and to meet the advice and requirements of the NPPF 2012

INFORMATIVES

- 1 The applicant is advised that it will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of

Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence.

Case Officer: Jon Lawrence

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.