

**REPORT SUMMARY**

<b>REFERENCE NO - 15/510660/FULL</b>		
<b>APPLICATION PROPOSAL</b> Retrospective permission is sought for two mobile homes, a day room, two touring caravans and a stable block for the benefit of a gypsy family		
<b>ADDRESS</b> Parkwood Stables, Park Wood Lane, Parallel Track, Staplehurst, Kent, TN12 0DF		
<b>RECOMMENDATION - Approval subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The 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.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Staplehurst Parish Council wish to see the application refused		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr Kevin Harrington <b>AGENT</b>
<b>DECISION DUE DATE</b> 09/06/16	<b>PUBLICITY EXPIRY DATE</b> 27/06/16	<b>OFFICER SITE VISIT DATE</b> 17/05/15
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b> 12/0557 - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - <b>ALLOWED</b> at Appeal with conditions. This site is split in to two and comprises the Three Sons site and Parkwood Stables.  13/1633 - An application for discharge of condition 6 relating to MA/12/0557 – <b>REFUSED</b> on 18.11.2014 as insufficient information had been submitted to determine the condition. As the condition was refused the applicant was in breach of the time limit condition and the original planning consent that was allowed at appeal therefore lapsed. The council wrote to the applicant inviting them to resubmit 12/0577 as full planning application.  14/506873/FULL - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - Variation of Condition 6 (a), (b), (c) and (d) of planning permission MA/12/0557 - No Further Action Taken as the time limit for submitting the condition details had expired and the planning permission has lapsed.  15/504557/FULL - Removal of Conditions 6 (a), (b), (c) and (d) of Application MA/12/0557/FULL – No Further Action Taken as the time limit for submitting the condition details had expired and the planning permission has lapsed.  15/506836/FULL - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 4 touring caravans and 2 utility blocks with associated parking for two gypsy families and for the keeping of horses (part retrospective) – Application returned due to inaccurate site plan.		
<b>Enforcement</b> ENF/13127 – New buildings and layout of site now different to Granted MA/12/0557 – Case		

Closed 24.04.2014

15/500580/CHANGE - Another Mobile home has been moved on site; 50 metres of fencing removed – Planning Application submitted.

Adjoining site to the west:

Three Sons site:

12/0557 - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - **ALLOWED** at Appeal with conditions. This site is split in to two and covers the Three Sons site and Parkwood Stables

15/510210/FULL - Siting of 2 mobile homes, 2 touring caravans, and a utility/stable block for the benefit of a gypsy family for residential use (part retrospective) – Pending determination

Neighbouring sites located to the west of the application site:

Perfect Place (access off Maplehurst Lane):

13/0466 - Permanent / non personal permission for the retention of a mobile home, touring caravan and pole barn, together with permanent permission for a utility room, 2 stable blocks (as approved under MA/09/1767) and a sand school on an existing gypsy site – **APPROVED**  
1.07.2014

15/506646/FULL - Variation of condition 01 of planning permission (13/0466) for two more mobile homes and two more touring caravans – Pending determination

15/506635/SUB - Submission of details to discharge Condition 5 (Disposal of animal waste products), Condition 6 (Disposal of run-off) and Condition 8 (Landscaping) of planning permission 13/0466 – **REFUSED**.

Maplehurst Lane sites:

15/501537/FULL - Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective) - Pending consideration

15/501528/FULL - Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective) – Pending consideration

14/503810/FULL - Change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed – Decision quashed via Judicial Review. Enforcement case 16/500917/CHANGE – Pending consideration

13/1713 - Change of use of land to a gypsy/traveller site for two families with the stationing of 2 static caravans, 2 touring caravans, 2 utility buildings, laying of hard surfacing, cesspit and the erection of close boarded fencing – **REFUSED**

13/1732 (The Oaks) - Use of land as a gypsy/traveller site for one gypsy family including stationing of 1no Touring caravan and 1no Mobile home, erection of a utility block and installation of cesspit - **REFUSED**

12/1793 (Maplehurst Paddock) - An application for permanent (personal permission) use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables – Approved with conditions 30.09.2013

An annotated map showing the application site and neighbouring pitches (lawful and unlawful) is attached at **Appendix 1**.

## **1.0 BACKGROUND**

- 1.1 The application site relates to a gypsy traveller site with a lapsed planning permission for change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses. The allowed appeal for this site (ref: 12/0557) did not limit the permission to specific occupiers other than to gypsies and travellers. The planning permission lapsed as the applicant failed to discharge relevant conditions within the prescribed time limit set out in the Inspectors decision notice for application 12/0557.
- 1.2 The principle of two permanent gypsy traveller pitches in this location has been established under the allowed appeal. However, at present the two pitches known as Parkwood Stables and Three Sons do not benefit from planning permission for the reason outlined above.
- 1.3 There are two pending applications to cover these two pitches, this application and 15/510210/FULL. These two applications are different from the consent allowed at appeal and permission is now sought for additional caravans and revised layouts.
- 1.4 Appeal decision for 12/0557 is attached at **Appendix 2**.

## **2.0 PROPOSAL AND SITE DESCRIPTION**

- 2.1 Retrospective permission is sought for two mobile homes, a day room, two touring caravans and a stable block for the benefit of a gypsy family. Permission is sought for permanent non personal permission.
- 2.2 The mobile homes, day room and stable block are located on a piece of land set some 50m back from the Park Wood Lane frontage. There is a grazing paddock between the caravan site and the road which is also part of this application. Vehicle access is taken from Park Wood Lane in the northeast corner of the site and is shared with the adjoining site known as Three Sons. A majority of the site is bounded by post and rail fence. The stable block is located parallel to the southern boundary / ancient woodland. The day room and one mobile home are sited parallel to the west boundary of the site and the second mobile home is located at 90 degrees to the east of the paddock area.
- 2.3 The application is located on the west side of Park Wood Lane in the open countryside and Special Landscape Area as designated in the Local Plan 2000. The site is located in the open countryside in the emerging Local Plan (submission version) May 2016.
- 2.4 To the south of the site is an area of ancient woodland and local wildlife site known as Maplehurst Farm Wood. There is a watercourse running along the northern and southern boundary. To the north and east of site are fields and open countryside. To fields to the east of Park Wood Lane fall within Tunbridge Wells. Land adjoining the west of the site comprises a gypsy traveler site with a pending planning application 15/510210/FULL. There are further lawful and unlawful gypsy traveler sites located further to the west of the application site with access from Maplehurst Lane.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

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

Draft Local Plan policies: GT1, SP17, DM16  
Planning Policy for Traveller Sites 2015 (PPTS)  
Staplehurst Neighbourhood Plan: PW2, PW4

#### **4.0 LOCAL REPRESENTATIONS**

4.1 Frittenden Parish Council: Objects and recommend refusal for the following summarised reasons:

- Use of the land is not authorised.
- Contrary to policy.
- Highways Safety.
- Unsustainable development.
- Out of character for the status of the area of Low Weald
- Flood risk.
- Impact on ecology.

4.2 Staplehurst Parish Council: Recommend REFUSAL and request the application be reported to MBC Planning Committee for the following summarised reasons:

- Insufficient detail and plans.
- Contrary to the MBC Local Plan and Staplehurst NP.
- Not in a sustainable location
- Special status of the Low Weald.
- Horse pasture arrangements appeared inconsistent with DEFRA guidelines.
- The development would add to the already unacceptable over-intensification of the area.

4.3 Some 11 neighbour objections have been received raising the following (summarised comments):

- This is intentional unauthorised development.
- The applicant has failed to demonstrate he falls within a definition of a gypsy.
- Unsustainable location.
- MBC's 2014 SHEDLAA found this site unsuitable for a gypsy traveller site.
- The site is not allocated as a gypsy traveller sites in the emerging local plan.
- Landscape visual harm.
- Detrimental to setting of heritage assets.
- Harm to ancient woodland, ecology and water courses.
- Highways safety re: the site access and visibility.
- Flood risk.
- Pollution of adjoining watercourses.
- Site layout does not accord with the proposed layout.
- The cumulative visual impact of this sites and neighbouring sites dominates the area and settled community.
- The application fails to address the planning conditions on the previously allowed appeal.
- Lack of enforcement action.
- Loss of agricultural land.
- Harm to SLA.
- Contrary to the NPPF.
- The site is clearly visible from surrounding roads.
- Aerial photograph submitted with the application is out of date.
- Insufficient barrier adjacent the ancient woodland.
- This is a retrospective application.

- There is no mains water to this site.
- Management of waste and foul water.

4.4 Weald of Kent Protection Society: Objects to the proposal:

- Application is retrospective but not stated.
- No justification or traveller status given.
- Open countryside location

5.0 **CONSULTATION RESPONSES**

5.1 **Tunbridge Wells Borough Council:** Objects on grounds of visual harm and likely harm to ancient woodland unless the needs and personal circumstances or other material considerations would outweigh the harm identified and MBC is satisfied the proposal is acceptable in relation to all other material considerations, including highway safety.

5.2 **KCC Highways:** No objections

5.3 **Environment Agency:** No comments received following a consultation letter from MBC dated 6.06.2016. The EA have responded to the consultation request on the adjoining site and raised concerns regarding surface water drainage. The EA confirm the area is in Flood Zone 1. Since April 2015 the KCC as Lead Local Flood Authority are responsible for assessing surface water drainage in relation to planning application. KCC Drainage comments area below.

5.4 **KCC Drainage:** Confirm they have no records which demonstrate surface water issues in this area. KCC also confirm that development proposals for gypsy traveller applications fall outside the definition of major development, and therefore are outside of KCC's remit as statutory consultee.

5.5 **Landscape Officer:** Raises concerns regarding the proximity to the ancient woodland and that a 15m buffer has not been provided.

5.6 **MBC Environmental Health:** Request further information relating to portal water, sewerage and the use of the stable / utility block.

5.7 **Woodland Trust:** Objects to the current version of planning application 16/503251/FULL due to potential for damage and deterioration of ancient replanted woodland at Park Wood.

6.0 **Land Use**

6.1 There are no saved Local Plan policies relating directly to G&T development. Policy ENV28 of the adopted local seeks to restrict development in the countryside apart from a few exceptions which does not include G&T development.

6.2 Policy SP17 of the submission version of the draft local plan (DLP) and (also a countryside protection policy) states, amongst other things, that provided proposals do not harm the character and appearance of an area, small scale residential development necessary to meet a proven need for G&T accommodation will be permitted.

6.3 In addition policy DM16 of the DLP relating to G&T development states, amongst other things, that permission will be granted if a site is well related to local services,

would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

6.4 However the submission of the DLP was the subject of an EIP in the latter part of 2016 and has since been the subject of an interim assessment by the Inspector. Policy SP17 has been amended deleting any specific reference to G&T development apart from stating that proposals which accord with other policies in the plan and do not harm the countryside will be permitted. As such given the advanced stage of the DLP in moving towards adoption significant weight should be given to policies SP17 and DM16 of the DLP.

6.5 A key consideration in the determination of this application is also Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) amended in August 2016. 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.

6.6 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

6.7 Need for Gypsy Sites

6.8 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. 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:

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

6.9 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 needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree 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. .

6.10 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20<sup>th</sup> January 2016 and has been accepted by the DLP inspector in his interim report.

6.11 Supply of Gypsy sites

6.12 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 6.13 Since 1<sup>st</sup> October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles  
20 Permanent personal mobiles  
3 Temporary non-personal mobiles  
33 Temporary personal mobiles

- 6.14 Therefore a net total of 106 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 6.15 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 6.16 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. In it is asserted the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.

- 6.17 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

## **7.0 Gypsy status**

- 7.1 The Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31<sup>st</sup> August 2015, and the planning definition of 'gypsies & travellers' has been amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

- 7.2 *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."*

- 7.3 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 PTS 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.

7.4 The agent has submitted information to demonstrate that the applicants fall within the current definition of a gypsy / traveller. The following information has been provided by the agent to address criteria a-c:

- Gypsy status of the applicant Mr Harrington was established at an appeal hearing in May 2013.
- It has previously been agreed that Mr Harrington leads a nomadic habit of life.
- The applicant has not ceased to lead a nomadic way of life.
- Mr Harrington travels with his son leaflet dropping areas to obtain work while he is away.
- The applicant and his son are away for weeks at any one time.
- Mr Harrington has no reason to cease having a nomadic habit of life.

7.5 Though the submitted information lacks detail it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in the settled community. It is also noted that the council has accepted similar lifestyle patterns when assessing other gypsy traveller status / applications. It must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community. It is also noted that the Mr Harringtons gypsy status was agreed during a previous appeal hearing and Mr Harrington is considered to fall within the revised PPTS definition.

7.6 As such it is considered that based on the submitted details the applicants Mr Harrington and his extended family are from the travelling community and Mr Harrington leads a nomadic habit of life and it is accepted that they fall within the gypsy status definition.

## **8.0 Visual impact**

8.1 Guidance 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 not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact however, this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP which states that provided proposals do not harm the character and appearance of an area, amongst other things, small scale residential development necessary to meet a proved need for G&T accommodation will be permitted. In addition policy DM16 (modification version) states, amongst other things, that permission will be granted if a site is well related to local services, would not result in significant harm to the landscape and rural character of the area due to visual impacts, including cumulative visual impact and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

8.2 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in 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.

- 8.4 This site has been granted permission at appeal for the stationing of and keeping of horse (ref: 12/0557). In terms of the visual impact of the site on the local landscape the Inspector states:
- 8.5 *'Looking first at the horse keeping use, that would not, in itself, be out of keeping with the rural area. The paddock is shown to front Park Wood Lane and to extend back to the two residential pitches .... The Appellants have planted the perimeters of the paddock with native species such as hornbeam and hawthorn and in time the area will assimilate well with its surroundings appearing as a small field with native hedgerows.'*
- 8.6 I have no reason to disagree with the Inspector in terms of the visual impact regarding the keeping of horses and paddock area located at the front of the site. Additional landscaping can be secured by condition to enhance the existing landscape boundary treatment and plug any gaps to further screen the site from the Park Wood Lane frontage.
- 8.7 In terms of the visual impact of the two caravan pitches (Parkwood Stable and Three Sons) the Inspector states:
- 8.8 *'These have the advantage of being set back from the road and immediately to the north of a sizeable woodland area. They are thus seen at a distance and are screened from view from the south and seen against the backdrop of the wood from the north. The collection of structures on each site comprising the mobile home, touring caravan(s), utility room and domestic paraphernalia including parked vehicles cannot but be intrusive and the close boarded fencing that has been erected on the boundaries of the residential enclosures only emphasises the intrusion in the relatively unspoilt surroundings.'*
- 8.9 *'Seen only at a distance from any public viewpoint, however, the appearance of the residential part of the site is in general softened by intervening field boundary hedgerows. The clearest view is from the Park Wood Lane frontage of the site where recent tree felling and removal of vegetation has exposed the full depth of the site to view. However, when the newly planted hedgerow around the paddock matures this would screen much of the residential development from view. At the hearing the Appellants indicated that they would be willing to replace the close boarded fencing with means of enclosure more appropriate to the rural location which could further assist in assimilating the residential part of the site into its surroundings.'*
- 8.10 Since the appeal hearing a majority of the close boarded fencing on the site has been removed and replaced with post and rail fencing which is more appropriate to this rural location. The number of caravans and built structures on the site has clearly increased since the appeal hearing. However, the additional caravans and structures are set back from the road and are contained within the section of the site behind the paddock area and are therefore seen at a distance and are screened from view from the south and seen against the backdrop of the wood from the north, a relationship the Inspector found to be acceptable. For these reasons the additional caravan and structures on the site are not considered to result in significant harm to the landscape and rural character of the area compared to the scheme allowed at appeal in 2013. It is acknowledged that the vegetation along the road frontage would benefit from additional planting to plug any gaps and further screen the site from the Park Wood Lane and a condition is recommended to secure this.

Additional landscaping could also be provided adjacent the site vehicle access, subject to achieving adequate and safe visibility splays.

## **9.0 Cumulative Impacts:**

- 9.1 Guidance 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 policy DM16 (modification version) of the DLP states, amongst other things, that permission will be granted if a site would not significantly harm the rural character and landscape of an area due to cumulative visual impacts.
- 9.2 In terms of cumulative impact the Inspector assessing the lapsed permanent consent on this site states:
- 9.3 *'There are also four other gypsy sites nearby including Perfect Place adjoining the appeal site. However, three of the four only have temporary planning permission and the fourth a personal permission. All are small sites of one or two pitches. Having driven round the area and looked at the spread of gypsy sites and conventional dwellings, I did not find the former to be over-dominant even with the addition of the appeal site.'*
- 9.4 Since the Inspectors assessment of the cumulative impacts on the area there are now a number of additional pitches to the west of the site with access onto Maplehurst Lane. Of these pitches two have permanent planning permission for the stationing of caravans (Perfect Place and Maplehurst Paddock (personal consent)). A further five pitches are unlawful, including the pitch know as Three Sons adjoining the west boundary of the application site.
- 9.5 Dealing first with the whether the proposal is likely to dominate the nearest settled community, it is considered it would be extremely difficult to argue, given the modest number of persons involved in the development, that this would be the case.
- 9.6 Regarding any cumulative visual impact contrary to the provisions of policy DM16 of the DLP, in assessing this only lawful and permanent development should be taken into account. The adjoining site to the west, Three Sons, because it does not have permanent consent cannot be taken into account, however, it is acknowledged that there is a planning application pending determination on this adjoining site. The next nearest site is at Perfect Place and this site has permanent permission for a mobile home, touring caravan and pole barn, a utility room, 2 stable blocks and a sand school. There are a currently two mobile homes on this site which do not have consent and are unlawful. A field separates Three Sons sites from Perfect Place. Fields with hedgerow boundaries are located between the application site and the other lawful and unlawful pitches accessed off Maplehurst Lane.
- 9.7 Given the separation distances between the application site and other lawful pitches located to the west which includes mature hedgerow and tree planting field boundaries in places and given the limited lawful G&T development in the locality it is considered it would be difficult to argue a cumulative impact in connection this proposal. In coming to this conclusion I have had regard to the recommendations for approval for applications 15/501537 and 15/501528 which are also being considered by Members at committee on the 23 May 2017.

## **10.0 Ecology and Ancient Woodland Impacts**

- 10.1 Paragraph 118 of the NPPF states that:
- 10.2 *'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;'*
- 10.3 Natural England and Forestry Commission guidance relating to ancient woodland states the:
- 10.4 *'Impacts of development nearby can include these effects on the trees and woodland, and the species they support:*
- *compacting the soil around tree roots*
  - *breaking up or destroying connections between woodland and other habitats*
  - *reducing the amount of semi-natural habitats (like parks) next to ancient woodland*
  - *changing the water table or drainage*
  - *increasing the amount of pollution, including dust*
  - *increasing disturbance to wildlife from additional traffic and visitors*
  - *increasing light pollution*
  - *increasing damaging activities like flytipping and the impact of domestic pets*
  - *changing the landscape character of the area'*
- 10.5 The adjoining woodland is designated ancient woodland and there are several ponds in the area including one on the application site at the southern end of the road frontage together with drainage ditches.
- 10.6 In terms of ecological impacts the site has been in use as a gypsy traveller site since 2012 with hardcore laid in the part of the site containing the caravans, utility building and stable.
- 10.7 The appeal Inspector previously found that consent could be granted at this site without ecological harm arising provided suitable safeguarding conditions are imposed. It is noted that the conditions recommended by the Inspector have not been complied with or formally discharged by the council and this permission has lapsed as a result. The ecology condition on the Inspectors decision states the following ecology details shall be submitted to the council:
- the creation of and retention of an ancient woodland buffer strip;
  - the creation and retention of a habitat buffer strip between the road and ditch;
  - the creation and retention of a habitat buffer around the pond; and
  - the creation of a log pile within the pond habitat buffer
- 10.8 To date only log pile has been provided on site although the proposed site plan indicates that habitat buffer strip between the road and ditch and around the pond would be planted should consent be granted. The site plan also proposes a buffer landscaping strip some 6m in depth along part of the boundary adjacent the ancient woodland.
- 10.9 Clearly the fact that the previous requirements and conditions have not been fully complied with is not ideal, however, in terms of ecological impacts it is considered that there have been no material changes at the site since the Inspector granted permanent consent in 2013 and the area of hardcore and grazing paddock remains

broadly the same with some additional landscaping planted on the site boundaries. The removal of the close boarded fencing and replacement with post and rail fencing comes with ecological benefits and allows wildlife to move between the site and the adjoining fields and woodland. Subject to the imposition of the aforementioned ecological enhancements which can be secured by condition it is considered that the ecological impacts at the site would be acceptable.

- 10.10 One of the most notable changes on site compared to the previous appeal consent relates to the erection of a stable block along the southern boundary. The stable block is located in proximity to the south boundary and within the ancient woodland buffer planting strip proposed within the remainder of this site and the adjoining site. It is also noted that the proposed buffer strip adjacent the ancient woodland is only some 6m wide which is notably less than 15m which is recommended by Natural England guidance.
- 10.11 On this point, it is unlikely that it would be possible to provide a 15m wide buffer strip within the site along the southern boundary adjacent to the ancient woodland as a 15m wide planting strip would encroach into the site and significantly reduce the available space for stationing the two mobile homes, two tourers, utility building, stable block and outdoor amenity space.
- 10.12 The Inspectors decision did not specify that the buffer should be 15m and it is also noted that during the consideration of the Section 78 appeal (planning application 12/0557) and associated enforcement appeals that the applicant was required to relocate a stable from the road frontage due to the visual harm caused to the open countryside.
- 10.13 The application details suggest the current stable block as been on site for 7 or 8 years which would make it immune from enforcement action. However, after examining aerial photographs of the site I have not been able to find any evidence of the stable block in this location before 2012. Notwithstanding this the stable has been in the current location for some time and the council have not taken enforcement action to date and although the stable is located within the desired 15m buffer zone adjacent to the ancient woodland, given the size of the stable it is considered that any harm caused to the ancient woodland would be negligible and potentially irreversible and potential harm arising from the construction of stable block would have already occurred. It is also considered that the demolition of the stable block could result in further harm to the ancient woodland. It would be important to ensure the stable block and horse waste is probably managed on this site to safeguard the adjacent woodland and further details could be secured by condition should Members consider granting permission.
- 10.14 The location of the stable block in proximity to the ancient woodland and general use of the site as a gypsy traveller in terms of the impacts on the ancient woodland clearly weigh against the proposed development.

## **11.0 Sustainability**

- 11.1 Gypsy traveller sites will almost inevitably be located in countryside locations, and the site is located some 2.5 kilometres from Staplehurst. In my view, I do not consider the site to be so far removed from basic services and public transport opportunities as to justify grounds to refuse this application in terms of being unsustainable. The Inspector determining the appeal for application 12/0557 also found this site to be in a sustainable location for a gypsy traveller site.

## **12.0 Residential amenity**

- 12.1 There are other gypsy sites in close proximity to the site (although it is noted not all these sites are lawful). The closest residential house is located some 120m to the north of the site on the opposite side of the road. The static caravans are located a sufficient distance away from the neighbouring houses / caravans and I am satisfied that the development would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of general noise and disturbance, and privacy.

### **13.0 Highway safety implications**

- 13.1 The application site is located in the open countryside and any future occupants of the site would be largely reliant on private motor vehicles to access local services and facilities.
- 13.2 KCC advise that they have no objections to the vehicle access which has been in situ for a number of years. The Inspector also found the vehicle access to be appropriate from a highways safety perspective. The hardstanding around the mobile homes would provide sufficient on-site parking and turning areas such that there would be no adverse highways safety impact on Park Wood Lane.
- 13.3 There is an established vehicle access to the site and KCC Highways do not raise any highways safety issues regarding the access. The use of the site would not result in a significant increase in vehicle trips given the nature / size of the site. Overall, it is considered that there is no significant highway safety or parking issues to warrant refusal of the application.

### **14.0 Flood Risk**

- 14.1 The application site is located in Flood Zone 1 and there are no flood risk objections in terms of fluvial or tidal flooding as a result. KCC Drainage has advised that this area is not subject to any known surface water drainage issues to warrant refusal of this type of application.
- 14.2 A number of objections have been received relating to on site drainage and, although the site has been utilised as a gypsy traveller site for a number of years and the Inspector assessing the previous application on this site did not consider it necessary to request further details relating to drainage and portable water it would be prudent to do so now to ensure that the additional unit and intensified use of the site can be accommodated.

### **15.0 OTHER MATTERS:**

- 15.1 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

### **16.0 PREVIOUS CONSENT AND CONDITIONS**

- 16.1 It is acknowledged that the previous consent on this site has lapsed and some of the conditions attached to the Inspectors decision have not been adhered to or formally discharged by the council and there is concern from local residents that any future conditions attached to a new consent will also not be adhered with.

- 16.2 On this point, should Members be minded to granted approval, it will be important for the council officers to act proactively and communicate with the applicant to ensure the proposed conditions are submitted to and discharged by the council within the prescribed time limits. It will also be important to ensure that council officers are proactive in ensuring the additional details are fully delivered on site within the prescribed timescale and maintained thereafter. The council enforcement powers will be utilised should the applicant not comply with the proposed conditions.

## **17.0 CONCLUSION**

- 17.1 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.
- 17.2 The introduction of a gypsy traveller site comprising two mobile homes, stable block and utility building in the countryside will inevitably have some visual impact on the character and appearance of the rural area. In this instance the visual impact of the development is considered to be acceptable subject to additional landscaping and this site was found to be acceptable from a visual impact perspective when previously assessed at appeal. The caravans and buildings on the site area set back from the road and the existing boundary planting can be further enhanced, including adjacent the site access onto Park wood Lane subject to visibility splays.
- 17.3 The application site, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, does not dominate the settled community.
- 17.4 In the context of gypsy and traveller accommodation, the application site is considered to be in a relatively sustainable location that is not so remote from services and facilities to justify a refusal.
- 17.5 The application development does not have any adverse impact on residential amenity. The application development does not lead to any increased risk to highway safety or flood risk.
- 17.6 The proximity of the gypsy caravan site and in particular the stable block to the southern boundary would be contrary to Natural England guidance is considered to have a detrimental impact on the adjacent ancient woodland as a result. The impact on the ancient woodland is considered to weigh against the proposed developed although the removal of the stable block could cause further harm to the Ancient Woodland.
- 17.7 All representations received on the application have been fully taken into account. Balancing matters, it is considered that the impact on the ancient woodland and low level of landscape harm caused by the development is outweighed by the need to provide gypsy traveller accommodation within the borough and the fact that this site has previously been granted consent at appeal, albeit that permission has now lapsed.

## **18.0 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 and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

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 who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than two static caravans and two tourers, 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 unless otherwise agreed in writing with the Local Planning Authority;

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

- (3) Save for activities in connection with the keeping of horses no commercial or business activities shall take place on the land;

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

- (4) If the use hereby permitted ceases, all caravans, structures, equipment and materials bought onto the land for the purposes hereby permitted including hardstandings, stable blocks and utility rooms shall be removed within 3 months of cessation;

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

- (5) Within three months of the date of this decision notice, details of the proposed method of surface water and foul sewage treatment, along with details regarding the provision of portable water and waste disposal, must be submitted to and approved in writing by the Local Planning Authority

The submitted details should include the size of individual cess pits and/or septic tanks and/or other treatment systems and should show the exact location on site and details as to where the system will discharge to. The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: in the interests of health and safety and to prevent contamination.

- (6) Within three months of the date of this decision notice, details of 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 plan shall be submitted for approval in writing by the Local Planning Authority. 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 along the southern boundary and the area to the front / eastern part of the site adjacent the road and around the pond;

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons after the date of the decision notice; 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 safeguard the character and appearance of the countryside.

- (9) Within three months of the date of this decision notice, details of a repositioned access to Park Wood Road including sight lines, landscape works, surfacing materials and details of any gates proposed shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside

- (10) Within three months of the date of this decision notice, details of a Landscape Scheme and Ecological Management Plan for the site shall be submitted for approval in writing by the Local Planning Authority. Landscape Scheme and Ecological Management Plan shall include:

- o the creation of and retention of an ancient woodland buffer strip;
- o the creation and retention of a habitat buffer strip between the road and ditch;
- o the creation and retention of a habitat buffer around the pond; and

The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (11) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of residential amenity.

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

Reason: In the interests of visual amenity

- (13) Within three months of the date of this decision notice, details of the means of storage prior to disposal and the method of disposal of faecal, bedding or other waste arising from the animals housed within the development have been submitted to and approved in writing by the local planning authority. Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers and the amenities of the surrounding area.

(13) The development hereby permitted shall be carried out in accordance with:

Site Location Plan, Existing Stable Block Plan, Utility Block Plan and J001433 PL02A; received 19.03.2016.

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

Case Officer: Andrew Jolly

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