

REPORT SUMMARY

REFERENCE NO - 16/510210/FULL		
APPLICATION PROPOSAL: Stationing of 2 mobile homes, 2 touring caravans, and a utility/stable block for the benefit of a gypsy family for residential use (part retrospective).		
ADDRESS: The Three Sons, Park Wood Lane, Parallel Track, Staplehurst, Kent TN12 0DF		
RECOMMENDATION: Approve subject to conditions.		
SUMMARY OF REASONS FOR RECOMMENDATION: The proposed development, subject to imposition of conditions as herein recommended, is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of permission.		
REASON FOR REFERRAL TO COMMITTEE: Recommendation contrary to the views of Staplehurst Parish Council and objection has been raised by the Environment Agency.		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst Parish Council	APPLICANT – Mr Arthur James AGENT – N/A
DECISION DUE DATE (Extended) 31.08.2017.	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE 21/06/2017

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site occupies an area of 0.06ha of rectangular shaped land, and is located in the countryside approximately 2.5 kilometres south east of Staplehurst, a Rural Service Centre. The site lies to the west of Parkwood Stables which comprises a similar recently approved, slightly larger Gypsy and Traveller compound with stabling and an ancillary paddock and with frontage onto the western side of Park Wood Lane, a narrow rural lane, forming the boundary between the boroughs of Maidstone and Tunbridge Wells. The western site boundary abuts grazing land which in turn adjoins a cluster of lawful and unlawful gypsy traveller sites accessed from Maplehurst Lane further to the West. There is no interconnection between the application site and those sites fronting Maplehurst Lane. The nearest residential curtilage lies approximately 120m to the north, at the junction of Park Wood Lane with Staplehurst Road.
- 1.2 Land to the north comprises open farmland, while an ancient woodland and local wildlife site known as Maplehurst Farm Wood lies to the south. In accordance with the adopted Local Plan 2000, the site and its environs fall within open countryside and within the Low Weald Special Landscape Area afforded protection under Policy ENV34. In accordance with the emerging Local Plan (submission version) May 2016, the site would retain its open countryside status.

- 1.3 Access to the site is via a vehicular track that spurs at right angles from Park Wood Lane. The track is shared with Park Wood Stables and runs on an east/west alignment on the northern side of Park Wood Stables before opening into The Three Sons site via a '5 bar' timber gate. An open field drain shaded by an established, native species hedgerow, separates the site and trackway from the farmland to the north. The application site is enclosed on all sides by timber board fencing rising to approximately 1.8m in height. Traditional timber post and rail fencing defines the northern boundary of the access track.
- 1.4 A fenced 'buffer' landscape mitigation strip lies within the site abutting the ancient woodland in accordance with the terms of the 2013 appeal. A smaller part of the buffer strip has been partitioned as a children's 'play area', while the larger part is overgrown. A range of stables superimposed upon a concrete raft and used as an amenity block occupies the south west corner of the site. Two further concrete rafts have been constructed, against the western and eastern site boundaries with drainage stand pipes to afford connection to a single mobile home on each raft. The remainder of the site has been surfaced in rolled aggregate above hard-core fill which provides a permeable and consistent wearing surface.
- 1.5 At the time of site inspection (21.06.2017), two touring caravans were located on each of the concrete rafts. The applicant explained that one touring caravan was being occupied by his family, one by his extended family (mother and sisters) while the remaining two touring caravans belonged to travelling friends who were visiting on a short term basis (the GPDO allows for such temporary activity 28 days in the year). No mobile homes were located within the site. It was explained by the applicant that he was awaiting positive confirmation of planning permission before replacing two of the tourers with mobile homes. The existing utility block comprises a row of three small interconnected stables, containing shower/wc, laundry and domestic storage facilities. Three vehicles were present on site comprising two light vans and a private motor car all in apparent use. A 'live' water stand pipe was in evidence. The applicant advised that the site drainage connects to an underground cesspit that has been located within the fenced off 'buffer' strip, providing the necessary means of sanitation. There was no evidence of drainage odour (bearing in mind that the site visit coincided with the summer solstice and hottest day recorded since 1976) nor was there evidence that the site was subject to overt commercial activity.

2.0 PROPOSAL

- 2.1 Planning permission is sought for 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). The mobile homes would be 12m long x 4m wide (48sqm gross floor area), the stable block would be 9m long x 3.5m wide (31.5sqm gross floor area).

3.0 PLANNING HISTORY

- 3.1 The application site relates to part of a larger gypsy traveller site that was granted planning permission (ref:12/0057) at appeal in 2013 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. This appeal site comprised The Three Sons and Parkwood Stables (the larger of the two sites), both accessed from Park Wood Lane.

- 3.2 This site in conjunction with others to the west accessed separately from Maplehurst Lane is shown on the location plan attached as **Appendix 1** along with their current planning status.
- 3.3 The appeal permission (ref:12/0057 attached at **Appendix 2**) was a non-personal permission that limited occupation to Gypsies and Travellers and established the land use for permanent Gypsy and Traveller accommodation. However while the site was being used for its approved purpose the appeal permission lapsed as the applicant failed to discharge certain conditions within the prescribed time limit set out in the appeal decision notice.
- 3.4 Full permanent non-personal permission 15/510660/FULL was granted by planning committee on 23rd May 2017 at Parkwood Stables (the larger site adjoining The Three Sons to the east), regularising the use and stationing of two mobile homes, three touring caravans, a stable block and a day room for the benefit of a Gypsy family.
- 3.5 Permanent consent was granted 1st July 2014 ref: 13/0466 at Perfect Place, Maplehurst Lane (the adjoining site to the west) 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.

4.0 POLICY AND OTHER CONSIDERATIONS

- Maidstone Borough-Wide Local Plan 2000: ENV5, ENV6, ENV28, ENV34
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Planning Policy for Traveller Sites 2015 (PPTS)
- Draft Maidstone Local Plan (2011-2031): GT1, SP17, DM16
- Staplehurst Neighbourhood Plan: PW2, PW4

5.0 LOCAL REPRESENTATIONS

- 5.1 Frittenden Parish Council (Tunbridge Wells Borough): Objects and recommends refusal for the following reasons:

- the development is unsustainable;
- the development is not suitable;
- the site floods;
- no consideration has been given to road safety concerns in terms of highway access;
- no consideration given to the lack of utilities including foul drainage and the risk of contamination;
- the proximity to ancient woodland;
- the risk to ecology;
- the site is not in either the existing or emerging Local Plan and therefore not policy compliant;
- the development will have (and is having) a material adverse effect on the residential amenity of neighbours;
- the development is out of character for what is (or was prior to unauthorised development) beautiful countryside;
- the development has a serious negative impact on the countryside and a negative impact on the neighbourhood;

- lack of appropriate detail and supporting documentation.

5.2 Staplehurst Parish Council recommends refusal and has commented as follows:

- insufficient documentation to support the application;
- observed that Three Sons was one of two pitches that had been the subject of planning application 12/0557 which had been granted by the Planning Inspector on appeal, subject to a number of conditions. Application 15/504557 sought to remove the conditions but was refused; the conditions applied to 12/0557 had not been met within the required time limit, which left the site operating without valid permission;
- the new application did not justify doubling the number of caravans agreed by the Planning Inspector, did not explain the travelling status of the proposed residents nor address the question of how the Planning Inspectors conditions would be met;
- information provided in the application lacked precision;
- MidKent Environmental Shared Service had raised no objection to the application despite documenting serious concerns about the supply of potable water, disposal of foul sewage, manure storage, disposal and run-off;
- the site was not included (as a potential Gypsy Traveller site) in either the draft Local Plan or the Staplehurst Neighbourhood Plan;
- the volume and high quality of comments from local residents has reinforced concerns about the serious issues presented by the proposal, notably: the unsustainable location; the over-intensification of the site; the overwhelming of the settled community; the failure to address concerns about highways, drainage and utilities;
- Stressed the need for a co-ordinated approach to AG&T site applications.

5.3 Weald of Kent Protection Society (WKPS) supports Staplehurst Parish Council in their objections and has commented as follows:

- WKPS is concerned that there is a danger of an increasing imbalance between the rights of local residents and the Gypsy/Traveller community; that
- Insufficient justification has been made for the proposed development; and that
- The additional 18 pitch threshold required in the borough up to 2020, as indicated by the emerging Local Plan, should be the maximum allowed.

5.4 A total of 20 letters have been received from 18 members of the public. Their concerns are generally consistent with views expressed in respect of the adjoining Parkwood Stables site application 15/510660/FULL and can be summarised as follows:

- Proof is required of Gypsy and Traveller status, including that the occupants do not intend to live permanently on the site and if they were to live permanently on site, the justification for this,
- Unplanned and unsympathetic piecemeal development in a valued landscape;
- The rural area and settled community is already dominated by mobile homes – cumulative impact of development detrimental to rural character;
- Permission inevitably leads to subdivision of plots and increasing intensification of use;
- An unsustainable location too far from Staplehurst village, with no public transport links;
- It has not been demonstrated that water supply, and drainage provision would be compliant;
- No information provided relating to disposal of animal and human waste;
- Dangerous single track road with blind bends, and no pavements or lighting;

- The development would produce light pollution in the winter months;
- Not designated in the Local Plan or Staplehurst Neighbourhood Plan;
- Area floods regularly, exacerbating potential for ground water contamination;
- Vulnerable local woodland ecology would be threatened;
- Intentional unauthorised development harms effectiveness of the planning system and public confidence in it;
- Stables are to be provided without adequate grazing;
- The application states incorrectly that it is not within 20m of a watercourse;
- Site found to be unsuitable as a gypsy traveller site in MBC's 2014 SHEDLAA analysis.

The above list includes representations from two additional constituents via a local MP.

6.0 CONSULTATIONS

6.2 Landscape Officer

There are no protected trees within, or immediately adjacent to, the development site. However, Maplehurst Farm Wood immediately to the south of the site is designated Semi Natural Ancient Woodland. As the proposal does not incorporate a 15m buffer to the ancient woodland an 'in principle' objection is raised.

6.3 Tunbridge Wells Borough Council

TWBC has issued a 'holding' objection having initially raised no objection. Comments as to the nature of the holding objection have however not been received.

6.4 The Environment Agency

The Environment Agency has raised objection on the grounds that a Flood Risk Assessment has not been provided.

6.5 KCC SUDS

KCC has stated that as the application comprises a development proposal for caravan placement, the application falls outside the definition of major development, and is therefore outside of KCC's remit as statutory consultee.

6.6 KCC Highways

No objections

6.7 Environmental Health

No objection subject to conditions relating to sewage and water.

7.0 APPRAISAL

7.1 Policy Background

The site lies in open countryside and is therefore subject to Adopted Local Plan Policy ENV28 which states that 'Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers. The policy sets out permissible forms of development but excludes G&T development as this was covered under a specific policy which was not included in the

list of 'saved' policies. However the emerging Local Plan seeks to maintain the thrust of certain superseded Gypsy and Traveller Policies and due to its advanced stage can be afforded considerable weight, particularly as the Interim Findings Report does not conflict with the GTAA or with draft G&T policy.

A key consideration in the determination of this application is Government Guidance set out in 'Planning Policy for Traveller Sites (PPTS), amended in August 2015. The guidance places emphasis on the need for increased gypsy and traveller site provision, supporting self-provision and acknowledgement that sites are more likely to be found in rural areas. This is an exception to the principle of restraint in the countryside.

It is accepted that the proposal represents development contrary to the provisions of Policy ENV28. This policy is due to be replaced upon adoption of the emerging Plan by Draft Policy SP17, which follows the broad thrust of Policy ENV28. Draft Policy DM16 is specific to gypsy development, allowing for development subject to certain criteria, which includes sustainability, landscape character, the cumulative effect of development, highway safety, flooding and ecology. Given the advanced status of the emerging Plan, substantial weight can be afforded to both draft policies.

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. Policy SP17 of the submission version of the draft local plan (DLP) and (also a countryside protection policy) states, amongst other things, that provided a proposal does 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.

In addition policy DM16 of the DLP relating to G&T development states, 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. The DLP was however 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 may be given to policies SP17 and DM16 of the DLP.

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.

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 general development restraint policies.

7.2 Need for Gypsy sites

Although the emerging local plan is well advanced, there are not yet any adopted Development Plan policies relating to site provision for Gypsies and Travellers. Local

Planning Authorities are required to set their own Local Plan targets for pitch provision in their area. In order to address this, Salford University were commissioned to carry out a Gypsy and Traveller and Travelling Show-people Accommodation Assessment (GTAA) which was published in 2012 to cover the period October 2011 to March 2031.

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

This, is the best current evidence of need, and forms the evidence base to the Local Plan, although it should be acknowledged that the GTAA preceded the August 2015 publication of the revised PPTS which redefines amongst other things, status qualifications, and as a result the accuracy (albeit not substantially) of the GTAA figures.

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

The GTAA was completed prior to the publication of the revised PPTS, which sought to redefine the definition of Gypsies and Travellers. 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 change in definition of Gypsy and Traveller status. Although the current GTAA provides the best evidence of need, each decision must be taken on evidence available at the time.

7.3 Supply of Gypsy Sites

Under the terms and conditions of The Housing Act (2004), accommodation for Gypsies and Travellers is a specific form of housing, which Councils have a duty to provide. Draft Local Plan Policy DM16 accepts that subject to certain criteria, this type of accommodation can be provided in the countryside.

Between the base date 01.10.2011 of the GTAA and 26.06.2017, a net total of 107 permanent pitches have been provided. This means that a further 80 permanent pitches are required by 2031 to meet the objectively assessed need identified in the GTAA. The level of provision to date can be broken down as follows:

88 permanent non-personal pitches
19 permanent personal pitches
3 temporary non personal pitches
35 temporary personal pitches

The PPTS states that LPA's should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient to meet the 10 year period following Local Plan adoption (currently anticipated as late 2017). The Draft Plan does allocate specific sites sufficient to provide 41 additional pitches by 2031. This figure does not allow for potential uplift through the provision of windfall sites yet to come forward. Accordingly it is considered that the OAN of 187 pitches can realistically be achieved.

The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight when considering the expediency of granting consent on a temporary basis. 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. In such circumstances, the Local Planning Authority may reasonably consider the grant of permanent rather than temporary permission for G&T sites that come forward. 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

7.4 Gypsy status

Non-personal planning permission was granted on appeal in 2013, subject to Condition 1 that the site should only be occupied by gypsy and traveller families, it having been proven to the satisfaction of the Planning Inspector and the Council that the then applicant qualified for gypsy and traveller status. The Three Sons site was subsequently sold to a close relative of the current applicant, Mr Arthur James.

Mr James has provided satisfactory evidence of his gypsy status and is currently resident on the site with his wife and 3 children, one of whom attends a local primary school, the other two being of pre-school age. The County Gypsy Liaison Officer has stated that he is aware of Mr James Gypsy status.

The family are Gypsies. Mr Arthurs grandparents travelled in wagons and horses as did Mr Arthur when he was younger staying by the roadside. As that is no longer feasible due to restrictions, a site is needed where his children can have the schooling opportunities that Mr James considers were denied to him. The family still travels to the Gypsy fairs throughout the country and Mr James travels outside of the area in respect of his work in the building trade.

The Gypsy heritage of Mr James is supported by KCC Gypsy Liaison Officer and taking all evidence into account it is considered that Mr James falls within the revised PPTS Gypsy status definition. Based upon the submitted details it can be concluded that the applicant and his extended family are from the travelling community and that Mr James leads a nomadic habit of life. As such it is accepted that Mr James and his extended family fall within the gypsy status definition.

7.5 Visual/Landscape Impact

The site is contained by woodland to the south, a mature hedgerow to the north and although unscreened save by close boarded fencing to the west this aspect is viewed only from similar G&T sites further to the west. As the application site lies to the rear of Parkwood Stables, views from Parkwood Lane are limited and there are no views from public rights of way

Guidance in the PPTS states that Local Planning Authorities should very 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. Although the PPTS does not refer to landscape impact 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, small scale residential development necessary to meet a proven need for G&T accommodation will be permitted.

In addition policy DM16 (modification version) states 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.

This site has been granted permission at appeal for use as a Gypsy and Traveller site (ref: 12/0557). Although the permission permitted the keeping of horses that activity was served by the adjoining site at Parkwood Stables and there is no provision at The Three Sons for such activity. In terms of the visual impact of the site on the local landscape the Inspector did not find that impact to be so serious as to warrant dismissal of the appeal.

In terms of the visual impact of the two pitches (Parkwood Stable and Three Sons) the Inspector stated:

'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. 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'.

Since the appeal hearing close boarded fencing on the site approaches has been removed and replaced with post and rail fencing which is more appropriate to this rural location and assists in assimilating the land into its surroundings. Although under current proposals the number of caravans and built structures on the site would clearly increase, the additional caravans and structures, particularly those at The Three Sons site, are set substantially back from the road behind both the paddock area and the Parkwood Stables site and are therefore substantially screened from public view.

A landscape planting condition attached to recent grant of permission 15/510660/FULL at Parkwood Stables (the adjoining site to the east) requires additional landscape planting along the highway boundary to the east. Once this has been implemented, screening of the site would be more effectively achieved.

Consequently it is considered that the proposal for an additional mobile home and touring caravan would not result in significant additional harm to the landscape and rural character of the area.

7.6 Highways

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. There is an established vehicle access to the site which has been in existence for a number of years and KCC Highways do not raise any highways safety issues regarding the access. 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 within the site are adequate. There would be no adverse highways safety impact on Park Wood Lane.

The use of the site would not result in a significant increase in vehicle trips given the nature/size of the site. The principle and details related to the access have been recently reinforced by grant of permission in May 2017 in respect of 15/510660/FULL relating to the frontage site at Parkwood Stables.

Overall, there are no significant highway safety or parking issues to warrant refusal of the application.

7.7 Cumulative Impacts:

It is considered that the cumulative impact of the proposed development taking into account neighbouring permanent Gypsy and Traveller site permissions would not be so severe as to result in the domination of the surrounding countryside or the settled community. In reaching this view regard has been given to the scale of the proposed development, recent grant of planning permission for similar development in the locality and by reference to the planning inspector's decision for the same site, in which he found that 'he did not find Gypsy sites to be over-dominant, even with the inclusion of the appeal site'. As such the proposal would be compliant with LP Policy ENV16 and with PPTS guidance.

7.8 Ecology and Ancient Woodland Impacts

Paragraph 118 of the NPPF states that:

'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;'

Natural England and Forestry Commission guidance relating to ancient woodland states:

'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 fly tipping and the impact of domestic pets
- changing the landscape character of the area'

In terms of ecological impacts the site has been in use as a gypsy traveller site since 2012 with over-site hard-core laid to facilitate the stationing of caravans. The appeal Inspector previously found that consent could be granted at this site without ecological harm arising provided suitable safeguarding conditions were imposed. However the conditions recommended by the Inspector were not complied with or formally discharged by the council and as a result this permission has lapsed. The ecology condition imposed by the Inspector stated that a number of details should be submitted to the council. Of these only the item requiring the creation of and retention of an ancient woodland buffer landscape strip, is pertinent to the current application.

In terms of ecological impacts it is considered there have been no material changes at the site, save for installation of a drainage system, the appropriateness of which can be secured by condition. Hardcore had already been laid and while removal of close boarded fencing with traditional post and rail fencing to the woodland and watercourse boundaries comes with ecological benefits and allows wildlife to move between the site and the adjoining fields and woodland such measures allow domestic animals free access to these areas which may have undesirable impacts. Accordingly it is considered appropriate to impose a condition requiring submission of an Ecological Management Scheme to in particular address boundary enclosure in more detail.

Given that within a 6m buffer zone, there would be no buildings to impact on tree canopies, or foundations or surfacings that could impact on rooting systems. In addition site buildings would be relatively small and low impact and as such 6m would appear to be a satisfactory distance for woodland protection in such circumstances.

7.9 Sustainability

Having regard to Gypsy and Traveller lifestyle choices, sites will almost inevitably be located in countryside locations. Although not highly sustainable in respect of location, the site is not so far removed from basic services and public transport opportunities as to justify refusal on this basis. This follows the reasoning held by the Inspector when determining application 12/0557

7.10 Residential amenity

The adjoining approved G&T site at Parkwood Stables formed part of the original appeal approval and the subdivision of the site did not at the time influence the decision of the planning Inspector. As both sites would be used by the Gypsy and Traveller community this is not perceived as an issue. Both sites have independent means of access and are separated by 1.8m high close boarded fencing. Given the single storey format there are no overlooking issues or other amenity considerations. There are in addition other gypsy sites to the west of 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 proposal site is located a sufficient distance away from these properties 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, disturbance, and privacy.

7.11 Flooding

The application site is located in Flood Zone 1 where there would normally be no flood risk objections in terms of fluvial or tidal flooding. As the site lies outside of Flood Zones 2&3 it is not subject to Flood Risk Assessment (FRA). Although rural access roads in the vicinity may be subject to temporary flooding, inhibiting access to the site, in respect of the 2013 Appeal, the Inspector did not consider that the absence of a FRA was a turning issue. The Environment Agency amongst others have alluded to flooding, but to date no evidence, photographic or otherwise, has been provided to substantiate these claims. Moreover, 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. Site levels have been raised as a result of imported hard-core which in conjunction with gravel surfacing has provided over-site drainage relief and a porous surface throughout, facilitated by land drains close to the northern and southern site boundaries. Vulnerability to flooding is no different in comparison to the adjoining site at Parkwood Stables which the planning Committee approved in May of this year.

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 impose any drainage conditions. A drainage condition can however be imposed to ensure that the proposed intensified use of the site can be satisfactorily accommodated.

7.12 Environmental Health

The Scientific Officer has queried matters relating to the supply of potable water, the implementation of a satisfactory site sewerage system and the disposal of animal (horse) waste. It is considered that water supply and sewerage can be addressed through condition.

The reference to stables in the proposal relates to a stable-type building to be used for domestic utility purposes. There are no proposals for the keeping of horses on the site.

7.13 Other Matters

Government Guidance makes clear that retrospective G&T planning applications represent 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. The role of the planning system is not 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 retrospective development.

It is acknowledged that the previous consent on this site has lapsed and some of the conditions attached to the Inspectors decision in 2013 have not been adhered to, applied for or formally discharged by the council. Consequently local residents have raised concerns that conditions attached to a new consent will also not be adhered to. On this point, should Members be minded to granted approval, it will be important for the council to act proactively and communicate with the applicant to ensure the proposed conditions are submitted to and discharged by the council within 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 prescribed timescales and maintained thereafter. The fact remains that council enforcement powers can be utilised should the applicant not comply with the proposed conditions. It is also a fact that in accordance with the provisions of the Act, planning permission should not be refused when issues can be addressed by conditions.

8.0 CONCLUSION

- 8.1 The introduction of a gypsy traveller site comprising two mobile homes, placements for two touring caravans 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 development would be screened from public view and would not result in further encroachment into the countryside. While such development is strictly controlled, Gypsy sites can be acceptable in the countryside. In the context of the 2013 appeal the visual impact resulting from development was considered to be acceptable and the principle of use of the land as a Gypsy and Traveler site was subsequently established.
- 8.2 The proposed development, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, would not dominate the settled community, is in a relatively sustainable location, would not have any adverse impact

on residential amenity, and would not lead to any increased risk to highway safety or flood risk.

- 8.3 Although the proposal would to a degree have a detrimental impact on the adjacent Ancient Woodland, this in conjunction with the low level of harm caused to the surrounding countryside is considered to be outweighed by the need to provide, Gypsy Traveller accommodation within the borough.
- 8.4 The applicant has provided a satisfactory level of information regarding his family's Gypsy status and their need to live together as an extended family unit. Notwithstanding a range of concerns raised by third party interests and consultees the proposal is considered to comply with the Development Plan (Maidstone Borough-Wide Local Plan 2000) and with National Planning Guidance. Material circumstances indicate that subject to imposition of conditions planning permission should be granted.

9.0 RECOMMENDATION

GRANT Full permanent non-personal permission 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) 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 brought onto the land for the purposes hereby permitted including areas of hardstanding, 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 a potable water supply and details pertaining to waste disposal, must be submitted to and approved in writing by the Local Planning Authority. The submitted details should include the size and specification of individual cess pits and/or septic tanks and/or other treatment systems and should show their exact location on site and details of outfalls. The development shall be carried out in accordance with the approved details and maintained thereafter unless agreed in writing by the Local Planning Authority.

Reason: in the interests of health and safety and to prevent ground 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 new planting within the ancient woodland landscape buffer strip shown on the drawings hereby approved located adjacent to the southern boundary of the site.

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

(7) 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.

(8) Within three months of the date of this decision notice, details of an Ecological Management Plan for the site shall be submitted for approval in writing by the Local Planning Authority. The Ecological Management Plan shall have regard to:

- the long term protection, retention and management of the ancient woodland landscape buffer strip;
- the long term protection, retention and management of the open watercourse along the northern boundary of the site;
- the means of enclosure and boundary demarcation to these areas.

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.

(9) 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 other fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of residential amenity.

(10) 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

(11) The development hereby permitted shall be carried out in accordance with the following drawings and in accordance with any drawings subsequently approved in respect of the above conditions:

Drawing Number: 001433 PL02RevA (Site Location Plan 1:1250, Block Layout Plan/ Access 1:500) received 01.12.2015;

Utility Block Plans and elevations received 01.12.2015;

Reason: To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.