

<b>REFERENCE NO - 18/506276/FULL</b>		
<b>APPLICATION PROPOSAL</b> Application for one additional mobile home and one tourer. (Retrospective)		
<b>ADDRESS</b> 4 Martins Gardens Lenham Road Headcorn Ashford Kent TN27 9LE		
<b>RECOMMENDATION</b> – GRANT PLANNING PERMISSION subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The site is an established Gypsy and Traveller plot within Martins Gardens which comprises a row of six such plots – both authorised and unauthorised. The current application for one additional mobile home and one touring caravan represents a less intensive development of the plot than that recently refused planning permission under reference 18/500924/FULL.  The plot is well screened from views from Lenham Road by existing trees and hedgerows. Whilst the plot and the rear parts of the neighbouring plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the plot, the additional mobile home, the subject of the current application, is not sited close to the boundaries of the plot most visible from the adjacent public footpath and any views are against the backdrop of the mobile home developments on the application plot and the neighbouring plots to the south-west. As a result any increased visual impact in views from the public footpath will not be significant or intrusive.  The application shows the depth of the current plot to be reduced by some 7m - 12m from that existing and a 5m wide native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. The reduction in the depth of the plot brings it more in line with that previously granted on appeal in 2009. In addition, the proposed native species landscaped buffer is shown to be continued along the north-eastern boundary of the plot. The reduction in the depth of the plot and the planting of a landscaped buffer to the north-eastern and north-western boundaries of the plot will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape.  In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, it is not considered that the additional mobile home and touring caravan proposed in this application will have a significant or unacceptable harmful visual or landscape impact in the locality.  The additional mobile home is to accommodate a family member of the existing occupiers of the plot and their partner. A condition can be imposed on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> The recommendation is contrary to the views of Headcorn Parish Council.		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Ulcombe	<b>APPLICANT</b> Mr Johnny Cash <b>AGENT</b> N/A
<b>TARGET DECISION DATE</b> 30/08/19		<b>PUBLICITY EXPIRY DATE</b> 30/01/19

**Relevant Planning History**

MA/01/1181 - Stationing of 2 caravans & utility room. Refused 01.07.02.

Appeal against 2 enforcement notices issued 03.11.08 by Maidstone Borough Council:

ENF/10155 (Enforcement notice A) – Without planning permission the change of use of the land from a mixed use of woodland and nil use to stationing and residential occupation of caravans, the parking and storage of motor vehicles, the erection of fencing on the site and a new entrance gate at the access onto Lenham Road and the placing on the land of domestic and other paraphernalia all ancillary to the residential occupation of caravans on the land. Appeal allowed and enforcement notice quashed 24.07.09.

ENF/10155 (Enforcement notice B) – Without planning permission, operational development comprising of the construction of hardsurfacing and engineering operations comprising the infilling of a pond. Appeal allowed and enforcement notice quashed 24.07.09.

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

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

18/502176/FULL - Proposed siting of 3 additional mobile homes and 3 touring caravans at 1 Martins Gardens. Refused 12.10.2018. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact; 2) Access and associated structures visually incongruous and intrusive; 3) Impact on designated area of Ancient Woodland.

18/504256/FULL - Proposed siting of 2 mobile homes, 2 touring caravans and a utility room at 2 Martins Gardens. Refused 11.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact; 2) Impact on designated area of Ancient Woodland.

18/504254/FULL - Proposed siting of a mobile home, touring caravan and a utility room at 3 Martins Gardens. Refused 19.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact.

18/500925/FULL - Two additional mobile homes at 5 Martins Gardens. Refused 01.10.18. Grounds of refusal 1) Insufficient information relating to gypsy status and harmful visual and landscape impact.

18/500924/FULL - Stationing of 2 additional mobile homes to be occupied by Gypsy and Traveller families at 6 Martins Gardens. Refused 28.06.18 for the following reasons:

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

18/500785/FULL - Erection of dayroom at 6 Martins Gardens. Refused 28.06.18.

## **MAIN REPORT**

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

- 1.01 The site is located off the north-western side of Lenham Road and comprises the north-eastern most plot in a row of six Gypsy sites running along the north-western side of Lenham Road.
- 1.02 The plot is accessed from a shared accessway off Lenham Road which also serves four of the five neighbouring Gypsy sites to the south-west forming Martins Gardens. The fifth site, The Oaklands, at the south-western end of the row of sites has its own separate access off Lenham Road.
- 1.03 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 1.04 The site is less than 2km from the edge of Headcorn village (to the south-west of the site) and for the purposes of the Local Plan, the site is within the open countryside and within the Low Weald Landscape of Local Value as defined on the Policies Map to the Maidstone Borough Local Plan.
- 1.05 The plot referred to in the current application as 4 Martins Gardens (6 Martins Gardens in the Relevant Planning History listed above) benefits from planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and 1 utility room. -

### **2. PROPOSAL**

- 2.01 The site, as noted above, benefits from planning permission granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot.
- 2.02 The current application seeks planning permission for the stationing of one additional mobile home and one additional touring caravan on the plot. The submitted plan shows the additional mobile home to be sited to the south-west of the existing.
- 2.03 The Design & Access Statement submitted in support of the application states that the additional mobile home will be occupied by a member or the applicant's family and their partner who is pregnant and now needs a stable base. The Design & Access Statement further states that although the family member and partner have always been travelling and using the roadside to stop in, it is not safe for them both to continue to be continuous travelling gypsies and the stable base will allow the new child to enrol in main stream school and receive an education.
- 2.04 The current application is a revised submission following the refusal of planning permission 28.06.18 under application reference 18/500924/FULL for the stationing of 2 additional mobile homes on the plot.
- 2.05 The current mobile home plot at 4 Martins Gardens is more extensive than that granted on appeal in 2009 for the stationing of 1 static caravan, 1 touring caravan and 1 utility room on the plot. The current application shows the depth of the plot to be reduced by some 7m - 12m from that existing and a 5m wide native species landscaped buffer zone planted to the north-west of the repositioned rear (north-west) boundary line. In addition, the proposed native species landscaped buffer is shown to be continued along the north-eastern side boundary of the plot.

The reduction in the depth of the plot and the provision of a landscaped buffer to the north-western and north-eastern boundaries brings the existing plot more in line with that previously granted on appeal in 2009.

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

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Planning Policy for Traveller Sites (2015)  
Maidstone Borough Local Plan 2017: Policies SS1, SP17, GT1, DM1, DM3, DM8, DM15, DM30  
Landscape Capacity Study: Sensitivity Assessment (2015)  
Landscape Character Assessment (2012 – amended 2013)  
Landscape Character Assessment Supplement (2012)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents**

4.01 One representation received from a local resident raising the following (summarised) issues:

- There is constantly floodlighting on at night which points towards the road and the neighbouring home and on occasions there are very loud arguments/disturbances in the early hours of the morning. Additional residences on the site would only increase these disturbances to the neighbouring residents and would detract from the enjoyment of living in the otherwise quiet countryside.

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

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

### **5. CONSULTATIONS**

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

#### **Headcorn Parish Council**

5.01 The Planning & Licensing committee agreed that the application should be refused and that there were a number of areas that should be considered by the Local Planning Authority when considering the application, in particular:

- The gypsy/traveller status of the applicant;
- Whether the applicant previously led a nomadic habit of life;
- Given that the LPA can demonstrate a 5.3 year supply of gypsy and traveller site, there is no "unmet or proven need" to consider;
- New traveller site development in the open countryside should be strictly limited;
- The area is now largely concrete hardstanding and this has had an adverse effect on drainage in the area and now causes flooding onto the road and neighbouring properties at times of heavy rain;

- The application is contrary to the Local Plan policies SS1, SP17, DM1, DM15, DM30.

**Ulcombe Parish Council (Neighbouring Parish Council)**

5.02 Ulcombe Parish Council object to this application for the same reasons they objected to the previously refused applications for the same plot. In particular, the following concerns are raised:

- It must be determined whether the applicant is a gypsy or traveller in planning terms;
- Evidence that the applicant is leading a "nomadic habit of life" needs to be provided;
- There is no "unmet or proven need" for gypsy and traveller sites;
- Maidstone Borough Council now has a 5.3 year supply of traveller pitches;
- Existing countryside protection policies should be applied;
- The Parish Council object to all proposals for Martins Gardens that exceed the permissions granted as a result of the 2009 appeals.

**Kent Highways**

5.03 No highway objection raised subject to conditions relating to provision for construction vehicle loading/unloading and turning facilities, provision for parking for site personnel and visitors, provision of wheel washing facilities, provision and retention of vehicle parking spaces, and vehicle loading/unloading and turning facilities.

**Natural England**

5.04 No comments to make on the application. State that Natural England has published Standing Advice which can be used to assess impacts on protected species. Further state that Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which can be used to assess any impacts on ancient woodland.

**6. APPRAISAL**

**Main Issues**

6.01 The key issues for consideration relate to:

- Need for Gypsy sites
- Supply of Gypsy sites
- Gypsy Status
- Personal circumstances
- Visual and landscape impact
- Cumulative impacts
- Siting sustainability
- Residential amenity
- Parking and highway safety
- Area of Ancient Woodland and ecological interests
- Human Rights and Equality

### **Need for Gypsy sites**

- 6.02 The Maidstone Borough Local Plan was adopted in October 2017 and includes policies relating to site provision for Gypsies and Travellers. Local Authorities also have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. 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

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

### **Supply of Gypsy sites**

- 6.05 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.
- 6.06 Since 1<sup>st</sup> October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):
- Permanent/non-personal – 157
  - Permanent/personal – 26
  - Temporary/non-personal – 4
  - Temporary/personal – 37
- 6.07 Therefore a net total of 183 permanent pitches have been granted since 1<sup>st</sup> October 2011. A further 4 permanent pitches are needed by 2031 to meet the need identified in the GTAA.
- 6.08 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 adopted Maidstone Borough Local Plan allocates a number of 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.

- 6.09 The Council's current position is that it can demonstrate a 7.7 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2018.
- 6.10 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS directs that the lack of a 5 year supply of Gypsy and Traveller pitches should be given weight in the consideration of granting consent on a temporary basis. As the Council considers itself to be in a position to demonstrate a 5 year supply of pitches, the PPTS direction to positively consider the granting of temporary consent does not apply.

### **Gypsy Status**

- 6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised definition (Annex 1 of the PPTS) is as follows:
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*
- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 It should also be noted that the Planning Inspectorate's guidance for what is usually required to validate appeals relating to Gypsy and Traveller sites, includes the provision of family background and travel for work purposes details for over the last 10 years.
- 6.14 The Design & Access Statement submitted in support of the application states that the additional mobile home will be occupied by a member of the applicant's family and their partner who is currently pregnant and now needs a stable base. The Design & Access Statement further states that although the family member and partner have always been travelling and using the roadside to stop in, it is not safe for them both to continue to be continuous travelling gypsies and the stable base will allow the new child to enrol in main stream school and receive an education.
- 6.15 The Design & Access Statement states that the family member and partner have previously led a nomadic life and have travelled with the applicant as a family across the country to attend the horse fayres at Appleby, Cotswolds, Kent and Stow on the Wold where they seek work and deal in horses. The Design & Access Statement states that the family member and partner have no intention of giving up this life but now need a stable base for the benefit of the new child's education. The Design & Access Statement further states that the applicant and the family member travel the UK for work (landscaping) and do door to door canvassing for work.
- 6.16 Whilst the supporting information submitted in support of the Gypsy and Traveller status of the intended occupiers of the proposed additional mobile home is somewhat lacking in specific details with regards to their previous nomadic habit of life, the site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate a family member of the existing occupiers of the plot and their partner. A condition can be imposed on any grant of planning permission to

ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015 (or any subsequent definition that superseded that document).

### **Personal circumstances**

- 6.17 Apart from the desire to provide a settled base for the upbringing of the new child of the applicant's family member and partner and to enable the child to be enrolled in main stream school and receive an education, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside location. However, in this instance, the personal circumstances are considered to outweigh the limited visual and landscape impact in the countryside location resulting from the development.

### **Visual and landscape impact**

- 6.18 The site lies in the open countryside to the north-east of the Headcorn village settlement. The open countryside location forms part of the Low Weald Landscape of Local Value as defined on the policies map to the adopted Local Plan. Policies SS1 and SP17 of the Local Plan seek to conserve or enhance areas of local landscape value.
- 6.19 A public footpath (KH335) runs north-westwards from Lenham Road adjacent to the north-eastern boundary of the plot and an open field adjoins to the rear (north-west). To the rear of the plots at the south-western end of the row of Gypsy sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017).
- 6.20 Policies SP17 and DM30 of the Local Plan require that landscape protection should be given significant weight in considering development in the Low Weald Landscape of Local Value. In accordance with the Maidstone Landscape Character Assessments, the Low Weald generic guidelines seek to "*...conserve the largely undeveloped landscape with its scattered development pattern and isolated farmsteads*"; and more specifically, Landscape Area 43 (Headcorn Pasturelands) is an area being of *high* overall landscape sensitivity and is *sensitive to change*.
- 6.21 The plot, in this case, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above) for the stationing of 1 static caravan, 1 touring caravan and a utility room. The site is predominantly hardsurfaced and enclosed by close boarded fencing. The site is seen in the context of the neighbouring Gypsy and Traveller plots in Martins Gardens to the south-west. Some of the development on these plots is currently unauthorised.
- 6.22 It is generally accepted that residential caravans/mobile homes comprise visually intrusive development out of character in the countryside. Consequently, unless well screened or hidden away in unobtrusive locations, they are normally considered unacceptable due to their visual impact. Consequently, where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours, as required by policy DM15 of the adopted Local Plan.
- 6.23 The plot, the subject of this application, is set back from the frontage to Lenham Road and is well screened from views from the road by existing trees and hedgerows along the road frontage. The plot and the rear parts of the neighbouring Gypsy and Traveller plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the plot. The tops of the mobile homes are visible above the close boarded boundary fencing enclosing the plots.



- 6.24 The stationing of additional mobile homes within the Martins Gardens plots and the resulting intensification of the existing mobile home development in the locality has the potential to increase the visual impact in the locality and the impact on the open countryside landscape.
- 6.25 The additional mobile home, the subject of the current application, is not sited close to the boundaries of the plot most visible from the public footpath adjacent to the north-eastern boundary of the plot and any views from the footpath would be against the backdrop of the mobile home development on the existing plot and the neighbouring plots to the south-west. As a result any increased visual impact in views from the public footpath will not be significant or visually intrusive. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, it is not considered that the additional mobile home and touring caravan proposed in this application will have a significant and unacceptable harmful visual and landscape impact in the locality.
- 6.26 The proposed reduction in the depth of the current plot as existing by some 7m - 12m and the planting of a 5m wide native species landscaped buffer zone to the north-west of the repositioned rear (north-west) boundary line and returning along the north-eastern side boundary, to be secured by planning condition, will bring the plot back more in line with that approved on appeal in 2009 in terms of the extent of the site and the retention of landscaping to the north-western and north-eastern edges. The proposed native species tree and hedgerow landscape buffer will assist in mitigating the visual impact of the Martins Gardens plots within the open countryside landscape.
- 6.27 The site is an established Gypsy and Traveller plot and the current application represents a less intensive development of the plot than that recently refused planning permission under reference 18/500924/FULL. The reduction in the number of additional mobile homes proposed on the plot, the proposed reduction in the depth of the plot as existing by some 7m - 12m together with a scheme of native tree and hedgerow planting to provide a landscaped buffer along the repositioned rear (north-western) and side (north-eastern) boundaries of the plot, to be secured by planning condition, is considered to address the previous concerns regarding adverse visual harm within part of the defined Low Weald Landscape of Local Value.
- 6.28 The resulting impact on the visual amenities, landscape and rural character of the area is not considered to raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan.

### **Cumulative impacts**

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

north-eastern end of the row impact in views from the public footpath running north-west from Lenham Road to the north-east of the current application plot.

- 6.31 In the context of the existing mobile home development in Martins Gardens generally, an additional mobile home and touring caravan on the current application plot is not likely to result in any significant additional cumulative effect in terms of its impact on the countryside and landscape. There will be some increased cumulative effect as a result of the combined effect of other current mobile home applications for the neighbouring Gypsy and Traveller plots in Martins Gardens but the implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the north-eastern, north-western and south-western perimeters of the six plots will mitigate the additional impact. In the context of the existing authorised development, with the implementation of the landscaped buffer to be secured by planning condition, the combined cumulative effect in terms of impact on the countryside and landscape would not be so significant as to be considered in conflict with this aim of Local Plan Policy DM15.
- 6.32 Given that the current application for one additional mobile home on the site (2 mobile homes in total) is relatively modest in relation to the extent of other gypsy and traveller development – both authorised and unauthorised – in the near vicinity, it is not considered that an objection on grounds that the development would overwhelm the local community and services can be pursued.

#### **Siting sustainability**

- 6.33 Gypsy and traveller sites will almost inevitably be located in countryside locations, and in this case the site is less than 2km from the edge of Headcorn village (to the south-west of the site) with its local services, amenities and public transport links. Whilst located within part of the open countryside where residents would be reliant on the use of a car, the site is not considered to be so far removed from basic services and public transport links as to warrant a refusal of planning permission on grounds of being unsustainable, particularly given the nature of the development and development in the vicinity generally.

#### **Residential amenity**

- 6.34 The site is adjoined to the south-west by neighbouring gypsy and traveller sites in Martins Gardens (The Oaklands, Plots 1A, 1B, 2 and 3 Martins Gardens). The gypsy and traveller sites in Martins Gardens are not adjoined by residential properties and the closest neighbouring properties are on the opposite side of Lenham Road.
- 6.35 Given the nature of the neighbouring development and the separation between the gypsy and traveller development in Martins Gardens and the closest neighbouring residential properties, it is not considered that the use of the current application plot for the stationing of one additional mobile home (2 mobile homes in total) results in any unacceptable unneighbourly impact.
- 6.36 Vehicular and pedestrian movements to and from the site via the established shared access off Lenham Road which serves four of the five neighbouring Gypsy and Traveller plots to the south-west is not likely to impact on any neighbouring property. No overriding residential amenity issues are considered to be raised in the application.

#### **Parking and highway safety**

- 6.37 The plot has access from the shared access off Lenham Road serving the neighbouring Gypsy and Traveller plots in Martins Gardens to the south-west of the current application plot. The shared access formed part of mobile home use of the

application plot and the neighbouring plots granted planning permission on appeal 24.07.09 under ENF/10155 (Enforcement notice A) (See history above).

- 6.38 The permitted shared access is considered acceptable for the additional mobile home use in terms of highway safety. Adequate hardsurface space is available within the plot for the parking of vehicles associated with the residential use of the site and for vehicle manoeuvring enabling vehicles to enter and leave the plot in a forward gear. The level of vehicle movements to and from the site is not likely to be so significant as to raise any overriding highway safety issues. Kent Highways raise no objection.

#### **Area of Ancient Woodland and ecological interests**

- 6.39 To the rear of the plots at the south-western end of the row of Gypsy and Traveller sites is an area designated as Ancient Woodland on the Policies Map to the Maidstone Borough Local Plan (Adopted October 2017). The current application plot is located at the north-eastern end of the row of Gypsy and Traveller sites and does not impact on the area designated as Ancient Woodland or the 15m buffer zone of the area of Ancient Woodland.
- 6.40 The site is predominantly hardsurfaced and enclosed by close boarded fencing. There are existing trees in the northern and eastern corners of the plot which are to be retained. The stationing of an additional mobile home and a touring caravan on the plot has limited potential to impact on any ecological interests at the site.
- 6.41 Records show that Great Crested Newts have previously been recorded within this area and there is no reason to suggest that they are not still present. However, as the quality of habitat has significantly declined, there has been a reduction in foraging and commuting habitat for terrestrial species such as (but not necessarily limited to) the Great Crested Newt to and from surrounding habitats. As such, the loss and deterioration of habitat as a result of the Gypsy and Traveller use of the plots in Martins Gardens which has taken place would be considered to have a negative impact on the wildlife and ecological interests of the site and immediate surroundings.
- 6.42 The implementation of a scheme of native tree and hedgerow planting to provide a landscaped buffer along the repositioned rear (north-western) and side boundaries of the plot will enhance the ecological/biodiversity interests at the site. As such, a grant of planning permission for the additional mobile home on the current application site, together with native species landscaping/planting to the rear and side boundaries of the plot to be secured by planning condition, would enable ecological mitigation and/or enhancements to be secured by condition in accordance with Government guidance in the NPPF (para. 175).

#### **Human Rights and Equality**

- 6.43 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.
- 6.44 Apart from the desire to provide a settled base for the upbringing of the new child of the applicant's family member and partner and to enable the child to be enrolled in main stream school and receive an education, no other health, education or personal circumstances have been presented as part of the application in order to justify the siting of the additional mobile home on the land in the open countryside

location. The needs of the applicant's family member and partner and new child, in this instance, are considered to outweigh the limited visual harm to the countryside landscape.

### **Other Matters**

- 6.45 Given the nature and scale of the development proposed in the application (an additional mobile home and touring caravan on an established Gypsy and Traveller site), the conditions suggested by Kent Highways are not considered appropriate in this instance.

## **7. CONCLUSION**

- 7.01 The site, the subject of this application, benefits from the planning permission granted on appeal 24.07.09 under ENF/10155 (Enforcement notice A) for the stationing of 1 static caravan, 1 touring caravan and a utility room.
- 7.02 Planning permission was recently refused under application ref. 18/500924/FULL for the stationing of 2 additional mobile homes and 2 touring caravans on the site essentially on grounds of the adverse visual harm the development would have on the character and appearance of the countryside locality and landscape. It was also considered that the previous application failed to demonstrate that the intended occupiers of the additional mobile homes met 'gypsy & traveller' status definition.
- 7.03 The plot is well screened from views from Lenham Road by existing trees and hedgerows. Whilst the plot and the rear parts of the neighbouring plots in Martins Gardens are visible in views from the public footpath which runs adjacent to the north-eastern boundary of the plot, the additional mobile home, the subject of the current application, is not sited close to the boundaries of the plot most visible from the adjacent public footpath and any views from the public footpath would be against the backdrop of the existing site and the neighbouring mobile home sites to the south-west. As a result it is not considered that any increased visual impact in views from the public footpath will be significant or intrusive.
- 7.04 The current application represents a less intensive development of the plot than that recently refused planning permission under reference 18/500924/FULL. In the context of the existing and proposed Gypsy and Traveller development in Martins Gardens, it is not considered that the additional mobile home and touring caravan proposed in this application, together with the implementation of a scheme of native species planting to the repositioned rear boundary and the side boundary will have a significant and unacceptable harmful visual and/or landscape impact in the locality.
- 7.05 Whilst the supporting information submitted in support of the Gypsy and Traveller status of the intended occupiers of the proposed additional mobile home remains somewhat lacking in specific details with regards to their previous nomadic habit of life, the site is an established Gypsy and Traveller plot and the additional mobile home is to accommodate a family member of the applicant and the existing occupiers of the plot and their partner. A condition can be imposed on any grant of planning permission to ensure that the additional mobile home is not occupied by any persons other than gypsies and travellers as defined in Planning Policy for Travellers Sites, August 2015.
- 7.06 The reduction in the number of additional mobile homes proposed on the plot compared to the recently refused previous application reference 18/500924/FULL, the reduction in the extent of the current plot to the rear together with the implementation of a scheme of native species tree and hedgerow planting to the rear (north-western) and side (north-eastern) boundaries, is considered to address the previous concerns regarding adverse visual harm within part of the defined Low

Weald Landscape of Local Value. The native species tree and hedgerow planting will enhance ecological/biodiversity interests at the site and ecological mitigation and/or enhancements can be secured by planning condition in accordance with government guidance in the NPPF (para. 175).

- 7.07 In the context of the permitted Gypsy and Traveller development in Martins Gardens, with the implementation of an approved scheme of native species tree and hedgerow planting to provide a landscape buffer along the rear (north-western) and side (north-eastern) boundaries, the resulting limited additional impact on the visual amenities, landscape and rural character of the area is not considered to raise any overriding issues of conflict with policies SP17, DM15 and DM30 of the adopted Local Plan. The grant of planning permission is recommended subject to the conditions set out below.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile home hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document);  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than four caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site (Plot 4 as shown on the submitted Site Location Plan) at any one time, of which no more than two shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. Unless agreed in writing by the Local Planning Authority, the two static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Amended Site Block Plan as Proposed received 09 July 2019) hereby approved;  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time;  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) within 3 months of the date of this decision a Site Development Scheme, hereafter referred to as the 'Scheme', shall have been submitted for the written approval of the Local Planning Authority. The Scheme shall include details of: the internal layout of the site, including the siting of the static

caravans, means of enclosure, extent of hardstanding and parking; the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; new tree and hedgerow planting for the formation of a 5m wide landscape buffer zone to the repositioned north-western boundary of the plot and the north-eastern boundary of the plot, including details of species, tree and plant sizes and proposed numbers and densities; measures to enhance biodiversity at the site; and, the said Scheme shall include a timetable for its implementation.

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

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

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

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

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

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

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

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

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

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

Case Officer: Jon Barnes