

<b>REFERENCE NO - 20/502748/FULL</b>		
<b>APPLICATION PROPOSAL</b> Part retrospective application for the change of use from grazing to residential for Gypsy family and stationing of 3 No. mobiles with associated parking and the installation of 2 new cesspools		
<b>ADDRESS</b> Petsfield, Eastwood Road, Grafty Green, Maidstone, Kent, ME17 2DQ		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>• The proposals are in keeping with the existing gypsy and traveler use.</li> <li>• The visual impact of the proposed development is not significant due to its modest scale and design, and the screening from existing site boundary treatment.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton Malherbe Parish Council and Ulcombe Parish Council have requested that the planning application is considered by the Planning Committee if officers are minded to approve for the reasons set out in paragraph 5.01 and 5.02		
<b>WARD</b> Headcorn	<b>PARISH/TOWN COUNCIL</b> Boughton Malherbe	<b>APPLICANT</b> Mr Mark Hilden <b>AGENT</b> Ellis Associates Bexley Ltd
<b>TARGET DECISION DATE</b> 30/10/2020 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 31/7/2020

**Relevant Planning History:**

13/2141: Retrospective application for the erection of day room and decking as shown on site location plan received 12/12/13 and drawing no. 1111/13/B/1 Rev A received 24/03/14  
Approved on 12 May 2014

11/1076: Retrospective application for the erection of a day room as shown on the site location plan, elevations and drawing number 1111/10/1/B received on 28/06/11.  
Approved on 19 Aug 2011

10/1383: An application for discharge of conditions relating to MA/09/1891 (Change of use from grazing to residential for Gypsy family and stationing of two mobile homes, one touring caravan, hardstanding and associated works) details of condition 4 - Landscaping, Condition 5 - Landscaping Scheme, Condition 6 - Foul and surface water drainage and Condition 8 - Surfacing of hardstanding.  
Approved on 13 Jun 2013

09/1891: Change of use from grazing to residential for Gypsy family and stationing of two mobile homes, one touring caravan, hardstanding and associated works as shown on unnumbered site location plan and unnumbered plan received on 19/10/09 -  
Approved on 25 Feb 2010 Committee Decision

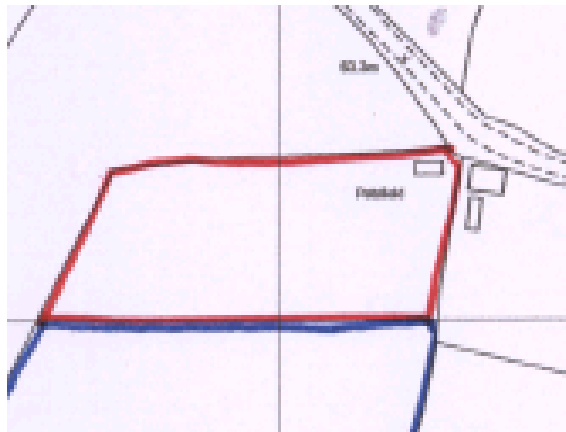
**MAIN REPORT**

## 1. DESCRIPTION OF SITE

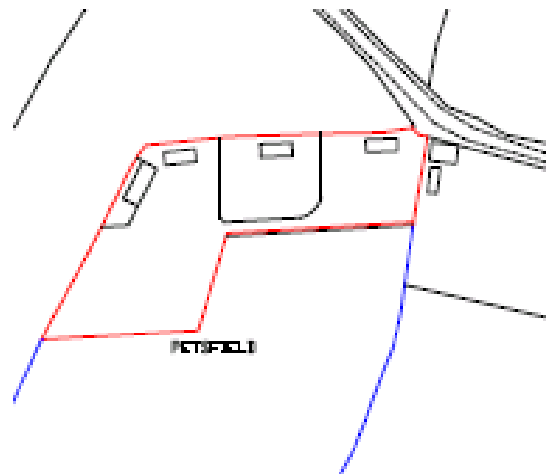
- 1.01 'Petsfield' is a lawful gypsy site on the south side of Eastwood Road that was granted planning permission under MA/09/1891 for the stationing of two mobile homes and one touring caravan. The permission did not include any condition that restricted the location of the caravans on the site. The application site for the current change of use relates to land immediately to the south of the existing gypsy site. The site location extracts below show that the site areas previously approved is comparable to the site area currently proposed.

Fig 1: Comparison of site plans for MA/09/1891 and 20/502748/FULL

Red line boundary for MA/09/1891



Current application red line boundary



- 1.02 Two subsequent planning permissions (11/1076 and 13/2141) allowed two day rooms to be stationed on site.
- 1.03 The access point is in the north eastern corner of the application site onto Eastwood Road. This point is the only part of the site where the site immediately adjoins the boundary with Eastwood Road. The remainder of the northern boundary is separated from Eastwood Road by between 10 and 90 metres (approximately). To the east and west of the site are open fields.
- 1.04 The nearest residential property to the site is Yew Tree Cottage (a grade II listed building), which is located approximately 100 metres from the site boundary in a north-west direction. At the time of site visit, one of the three proposed mobile homes has been stationed and grassland has partially been paved.
- 1.05 The site is located within the open countryside and within the Low Weald Landscape of Local Value as designated in the Maidstone Borough Local Plan 2017.

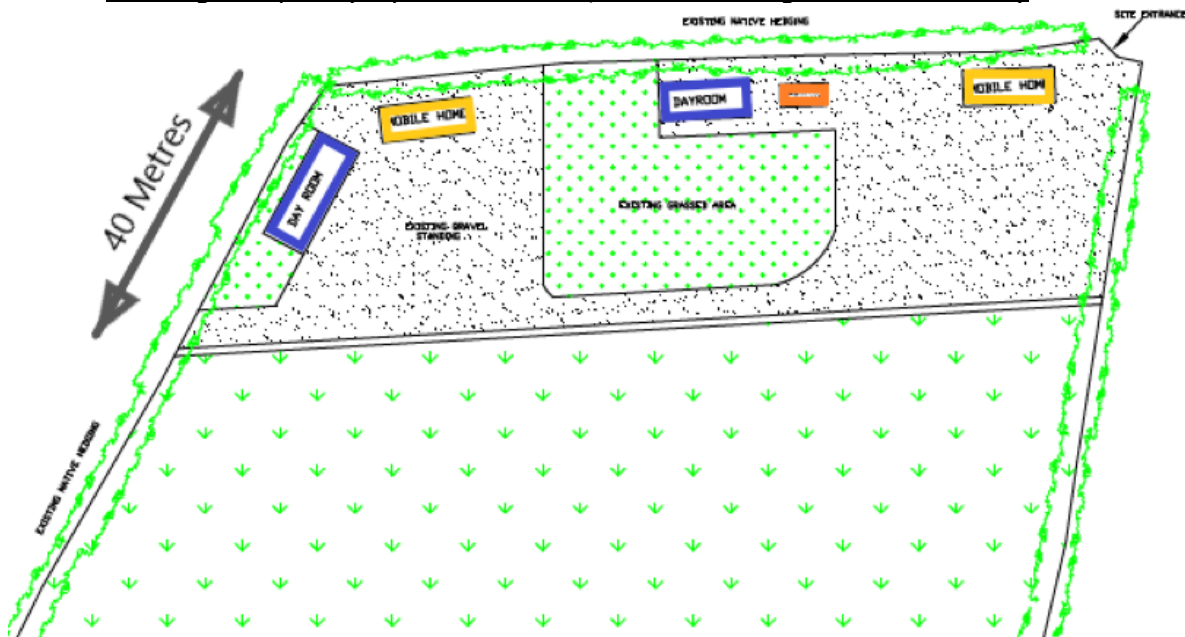
## 2. PROPOSAL

- 2.01 The current, part retrospective, planning application is for the change of use of land from grazing to residential for occupation by a gypsy family, including the stationing of 3 additional mobile homes with associated parking and the installation of 2 new cesspools.
- 2.02 The proposed mobiles would sit to the immediate south of the existing gypsy site alongside the western boundary opposite to a day room and mobile home. The three mobile homes would sit next to one another and separated by 1.8m tall

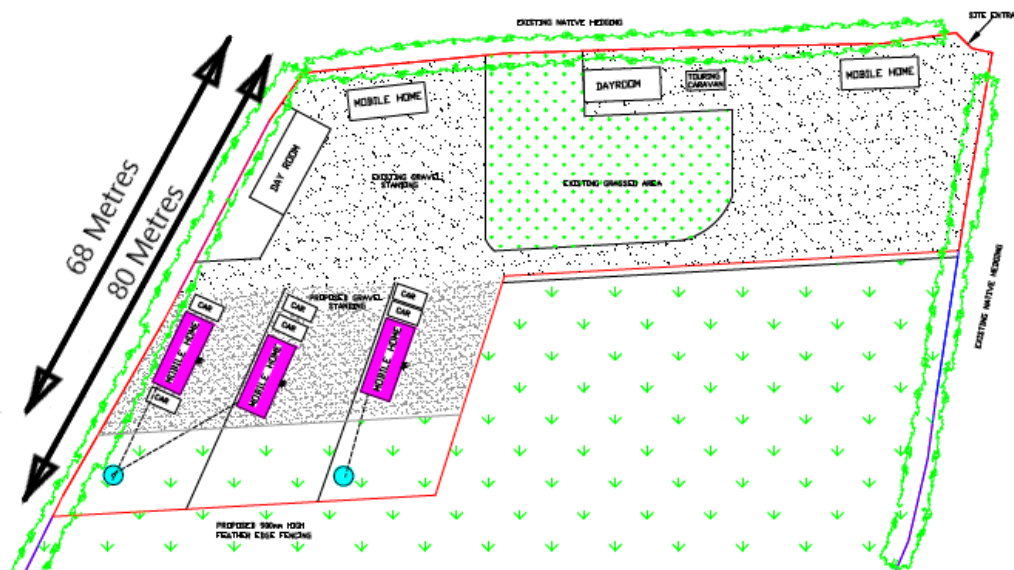
- fence. Design of the mobile would match the existing mobiles with white UPVC composite cladding and dark UPVC tin roof sheets.
- 2.03 Details of the occupants of the mobile homes have been submitted, together with evidence of the gypsy and traveller status that the applicant is claiming.
- 2.04 The site is located within the open countryside and within the Low Weald Landscape of Local Value as designated in the Maidstone Borough Local Plan 2017.
- 2.05 The existing and proposed site plans are shown below. It should be noted that the depth of the site as existing does not extend as far south as that approved under application MA/09/1891. The approved site is shown on Fig 1 earlier in this report.

Fig 2: Comparison between existing and proposed layout plans.

Existing site plan (dayrooms in blue, mobiles orange and tourer red)



Proposed site layout (proposed mobiles in purple with adjacent parking)



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

Maidstone Borough Local Plan 2017:

SP17- Countryside

DM1- Principles of good design

DM3- Natural environment

DM15- Gypsy, Traveller and Travelling Showpeople accommodation

DM30- Design principles in the countryside

National Planning Policy Framework (NPPF):

Section 12- Achieving well-designed places

Supplementary Planning Documents:

Planning Policy for Traveller Sites' (PPTS)

Maidstone Landscape Character Assessment (2012 – amended 2013)

Maidstone Landscape Capacity Study: Sensitivity Assessment (2015)

### **4. LOCAL REPRESENTATIONS**

#### **Local Residents:**

- 4.01 27 representations and a petition with 65 signatories received from local residents raising the following (summarised) issues
- The proposed development, by way of its size, scale and cumulative effect would result in an adverse and incongruous feature in the countryside leading to demonstrable harm to its character, appearance and the quality of the rural landscape which has been designated as landscape of local value
  - The three mobile homes will be clearly visible from Eastwood Road
  - The Council has met the supply for G&T sites, there is no need to authorize additional pitches in existing sites
  - The application site is not an allocated G&T sites in the local plan
  - The application site is not in a sustainable location
  - The development has been positioned within an area of Oak trees with TPO's on the direct boundary plus greenbelt land neighbouring (Forstal Farm) hence the charges and covenants placed on this land
  - Ecological impact
  - Decision should be in line with other refused similar applications nearby
  - Light pollution
  - Queries on the Gypsy and Traveller status of the occupiers
- 4.02 Issues with regards to visual harm, residential amenity, supply and demand of Gypsy and Traveller sites, ecology, and Gypsy and Traveller status would be assessed in the report. However, it is highlighted that the site is not within or in proximity to any TPO and greenbelt land.

### **5. CONSULTATIONS**

#### **5.01 Boughton Malherbe Parish Council (Summarised)**

Objection: Councillors recommend that the application be REFUSED and referred to MBC Planning Committee were the Planning Officer minded to approve the application for the reasons listed below.

- Constitutes an unwarranted incursion into the surrounding countryside outside the boundary of the original planning permission and will not conserve or enhance the natural environment contrary to NPPF Paras 109 to 125.
- Harm the appearance and landscape of the area contrary to policies SP17, DM15 and DM30 of the Local Plan.
- Intensify the current noise and light pollution from Petsfield. The current development with external light is in breach of the original planning permission.
- Previous landscaping conditions have been ignored.

- The council has met the supply for Gypsy and Traveller sites, there is no need to authorize additional pitches in existing sites. No provision in the local plan for Gypsy and Traveller sites in this area
- Unsustainable location contrary to policies SS1 and DM15 of the local plan, or PPTS 2015 para 13 and NPPF para 122c
- Queries on the Gypsy and Traveller status of the future occupiers of the proposed three mobiles

5.02 Ulcombe Parish Council (Summarised)

Objection: Councillors recommend that the application be REFUSED and referred to MBC Planning Committee were the Planning Officer minded to approve the application for the reasons listed below.

- The expanding Gypsy and Traveller community within such a small area of the countryside dominates the parishes of Grafty Green, Ulcombe and Headcorn.
- No justification for allowing this development given the adverse and blighting effect to the countryside and Landscapes of Local Value contrary to policies SS1, SP17, DM1 and DM30 of the Local Plan.
- Harm to the character and appearance of the area has been established for a similar Gypsy and Traveller development in a recent refusal (19/503101/FULL) at Neverend Farm (less than 1 mile from the site).
- Unsustainable location as stated in a recent appeal at Little Willows (19/504684/FULL) about ½ km from this site.
- Visual harm to the setting of adjacent Grade II Listed Building (Yew Tree Farm), contrary to section 16 on heritage assets in particular to para 194 (substantial harm to the setting of a Grade II asset) of the NPPF, and policy DM4 (impact on heritage assets) of the Local Plan.
- Intensify the current artificial light pollution from Petsfield contrary to paragraph 180 of the NPPF and DM8 of the Local Plan.
- Queries on the whether there is definitive evidence that the applicants are nomadic in accordance with the requirement from PPTS of 2015.

**6. APPRAISAL**

**Main Issues**

6.01 The key issues for consideration relate to:

- Need for Gypsy and Traveller Pitches
- Supply of Gypsy Sites
- Gypsy Status
- Design and landscape impact
- Amenity impact
- Sustainability
- Impact on Heritage

**Need for Gypsy and Traveller Pitches**

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

6.03 Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA conclusions on the need for pitches over the remaining Local Plan period is shown in table 1 below.

6.04 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of need at this point, forming as it does part of the evidence base to the Local Plan. It is considered to be a reasonable and sound assessment

of future pitch needs, albeit that actual needs may prove to be somewhat lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

**Table 1: Need for Gypsy and Traveller Pitches Oct 2011 to March 2031**

<b>Period</b>	<b>No of pitches</b>
Oct 2011 – March 2016	105
April 2016 – March 2021	25
April 2021 – March 2026	27
April 2026 – March 2031	30
<b>Total Oct 2011 to March 2031</b>	<b>187</b>

6.05 The target of 187 additional pitches is included in Policy SS1 of the Adopted Maidstone Borough Local Plan (Adopted October 2017).

**Supply of Gypsy Sites**

6.06 Accommodation for Gypsies and Travellers is a specific type of housing that Councils have a duty to provide for under the Housing Act (2004). Adopted Local Plan policy DM15 accepts that subject to a number of criteria being met, this type of accommodation can be provided in the countryside.

6.07 The following table sets out the overall number of pitches which have been granted consent from 1<sup>st</sup> October 2011, the base date of the assessment, up to 31<sup>st</sup> March 2020.

**Table 2: Supply of Gypsy and Traveller Pitches Oct 2011 to 31 March 2020**

<b>Type of consents</b>	<b>No. pitches</b>
Permanent consent	196
Permanent consent + personal condition	30
Consent with temporary condition	4
Consent with temporary + personal conditions	39

6.08 A total of 226 pitches have been granted permanent consent since October 2011 (196+30). These 226 pitches exceed the Local Plan's 187 pitch target. The Council's current position is that it can demonstrate an 8 year supply of Gypsy and Traveller sites at the base date of 1<sup>st</sup> April 2020.

6.09 Government guidance on Gypsy and Traveller development is contained in 'Planning Policy for Traveller Sites' (PPTS). The PPTS at paragraph 11 advises "...Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward. Criteria based policies should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community".

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

**Gypsy Status**

6.11 The planning definition of 'gypsies & travellers' as set out in the PPTS has been amended to exclude those who have ceased to travel permanently. The revised

definition (Annex 1 of the PPTS) is as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such*".

- 6.12 As noted above, the definition includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PPTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 6.13 In terms of the applicant's Gypsy status, the applicant of this application is the same as previous permissions for Petsfield. It is stated in the submitted Design and Access Statement the proposed three mobiles would be accommodated by the applicant's three grandchildren whom has reached an age where they require their own accommodation.
- 6.14 Information has been submitted which demonstrates that the applicant has Gypsy and Traveller status, and the additional mobiles would be occupied by their grown up grandchildren. They have always travelled together as a family and will continue to do so. They travel to horse fayres and markets throughout the country to make their living. As such, there is no reason to reasonably doubt the applicant and the grandchildren have and will continue to pursue a Gypsy and Traveller lifestyle thereby meeting the provisions of the revised guidance.

#### **Design and landscape impact**

- 6.15 Policy DM1 states that development must respond positively to, and where possible enhance the character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality design approach.
- 6.16 Policy DM15 states that Gypsy and Traveller development must not result in harm to the local landscape character and that development should be well screened by existing landscape features.
- 6.17 Policy DM30 requires, amongst other things, that development maintains, or where possible, enhances local distinctiveness including landscape features; that impacts on the appearance and character of the landscape will be appropriately mitigated.
- 6.18 The application site is located in countryside identified as a Landscape of Local Value, Ulcombe Mixed Farmlands within the Low Weald. In terms of elements of this landscape that are relevant to this application the Landscape Character Assessment encourages the reinstatement of native hedgerow boundaries where these have been removed and conserve the distinctive linear pattern of settlements.
- 6.19 The site is well screened from Eastwood Road by way of the existing high dense vegetation and close boarded fencing along its own boundary as well as the boundary hedgerow of the intervening field adjoining the road.
- 6.20 Furthermore, the three mobile homes are set back from Eastwood Road, and there would be no views from any public footpaths, the nearest being KH328 located approximately 170 metres to the west. In addition, the proposed caravans have a low roof pitch dark in colour, at the same height as existing

mobile homes on the site and slightly lower than the height of the day rooms. The existing dayroom and mobile homes would provide additional screening to the proposed mobiles from the main road.

- 6.21 Notwithstanding the screening of the site, following a discussion with the applicant that raised concerns about the extent of hardstanding, revised plans have now been received. The revised layout shows reduction in the extent of the hardstanding with the relocation of the parking spaces closer to the existing site and provision of a grassed area as a garden for each of the mobile homes. The amended scheme would retain approximately 30% of the extended site area with grassland as shown on the revised Existing and Proposed Block Plan and Elevation received on 12<sup>th</sup> Oct 2020.
- 6.22 Having considered the above, I am of the view that the development, being close to an existing gypsy site, does not appear prominent or visually intrusive in long-range views of the countryside, or cause any material harm to the scenic quality or character of the landscape of local value. Even when the leaves are off of the trees during winter season, I do not consider that the development will harm the openness of the countryside due to its location, its relatively low height, and the set back from the road.
- 6.23 In terms of impact upon heritage, Yew Tree Cottage (a grade II listed building) is located approximately 100 metres to the north-west of the site boundary. Given the site is sufficiently screened by dense vegetation and fence, and the degree of separation, I do not consider the proposed development would result in any significant visual impact affecting the setting of this listed building.
- 6.24 In terms of light pollution, it is not considered that appropriate lighting would cause unacceptable harm to the area visually. A planning condition requesting details of external lighting to be submitted and approved is recommended to be attached to any grant of permission.
- 6.25 Representations have been received with regard to the Council's views for similar development nearby on visual harm to the countryside. Whilst they are in a nearby location to the application site, each of the site's situation and proposal varies, and I am mindful each application should be assessed on its own merits.
- 6.26 Without the development or residential use being prominent from any public vantage point it is considered that there is no significant demonstrable visual harm to the character and appearance of the surrounding area. In the absence of such harm, I consider that the impact on the character and appearance of the Landscape of Local Value and open countryside to be acceptable.

#### **Amenity Impact**

- 6.27 The mobile homes at the site would have no significant effects on the privacy of existing dwellings within Eastwood Road. The nearest dwellings are Yew Tree Farm, approximately 100m to the west of the site and Hillview, approximately 120m to the east. These distances together with the boundary treatment would ensure that there would be no adverse impact in terms of loss of privacy, or light.
- 6.28 With regard to noise disturbance from the site. A residential use is not a significant noise generator and any complaints regarding excessive noise would be assessed under the Environmental Health Legislation.
- 6.29 In terms of light pollution, it is not considered that appropriate lighting would cause unacceptable harm to the neighbouring properties to warrant refusal. A condition requesting details of external lighting is recommended.



### **Sustainability**

- 6.30 In terms of sustainability, the site is located relatively close to Kingswood, Harrietsham, Headcorn and Lenham and is approximately 0.5 miles to the village boundary of Grafty Green and 1.2 miles to the village of Ulcombe.
- 6.31 Whilst the site is not within a village or immediately on the edge of a village the above distances indicate that it is not an isolated site and would provide a settled base without the need for long-distance travelling. In this instance, the site is adjacent to an existing Gypsy and Traveller site, and would be occupied by the same gypsy family at Petsfield hence minimizing travelling between family where they can live on the same site. As such, I do not consider that the site is in such an isolated position that would warrant refusal on sustainability grounds.

### **Ecology**

- 6.32 The site is an existing Gypsy and Traveller site with grass and hardstanding. The proposed involves the change of use of grassland which has been used by the applicant for grazing of horses. It is considered unlikely that the grassland provides a suitable habitat for any species and there is no requirement for any ecological surveys.
- 6.33 Should permission be forthcoming conditions will be imposed requiring the applicant to submit details of biodiversity enhancements to achieve a net biodiversity gain and this could be in the form of bird and bat boxes.

### **Highways**

- 6.34 The site is served by an existing access onto Eastwood Road. The vehicle movements generated by three additional mobile homes on the site would be easily accommodated on the local road network. A refusal would not be warranted in relation to the individual impact from the additional mobile homes currently proposed or in terms of the cumulative impact from other local development.
- 6.35 The current access arrangements to the site are considered acceptable and there have been no significant changes to the circumstances of the site, the development or the surrounding road network which would result in any impact to highway safety.

### **Other Matters**

- 6.36 It is not considered that this proposal, when considered cumulatively with other lawful gypsy sites in the vicinity, would be such scale and density that would result in it having an unacceptable impact upon the existing residential community.

### **Human Rights and Equality**

- 6.37 Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home.
- 6.38 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.

## **7. CONCLUSION**

- 7.01 In accordance with national planning policy, the issue of intentional unauthorised development has been a material consideration in the determination of this part retrospective application and this does weight against the development.

- 7.02 The development, being adjacent to an existing Gypsy and Traveller site and existing boundary treatment, would not have a harmful impact upon the character and appearance of the wider countryside and the area designated as landscape of local value.
- 7.03 In balancing all matters, the proposal would be acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval subject to conditions is made on this basis.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The additional mobile homes hereby approved shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015 (or any subsequent definition that supersedes that document);  
Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy the requirements for Gypsy and Traveller Caravan Sites.
- 2) No more than six caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any one time, of which no more than five shall be static caravans or mobile homes, and no further caravans shall be placed at any time anywhere within the site. The five static caravans or mobile homes shall be stationed on the site only in the positions shown on the plan (Proposed Block Plan, drawing no. MAI/20014/P Rev A received on 12 Oct 2020) hereby approved.  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value.
- 3) No commercial activities shall take place on the land at any time, including the storage of materials and/or livery use. No vehicles over 3.5 tonnes shall be stationed, stored or parked on the site and not more than four vehicles shall be stationed, stored or parked on the site at any one time;  
Reason: To safeguard the visual amenity, character and appearance of the open countryside location which forms part of the designated Low Weald Landscape of Local Value and local amenity generally.
- 4) The caravans hereby approved shall not be occupied until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to occupation of the caravans and all features shall be maintained thereafter.  
Reason: To protect and enhance the ecology and biodiversity on the site in the future.
- 5) No external lighting shall be put in place or operated on the site at any time other than that which has been previously submitted to and approved in writing by the Local Planning Authority;  
Reason: In order to safeguard the night-time rural environment, the ecological interests of the site, and residential and local amenity generally.
- 6) Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and/or re-enacting that Order with or without modification), no temporary buildings or structures shall be stationed on the land

without the prior permission of the Local Planning Authority other than as expressly permitted by this decision;

Reason: To safeguard the visual amenity, character and appearance of the open countryside location.

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

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

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan received on 25 June 2020

Existing and Proposed Block Plan and Elevation, No. MAI/20014/P received on 12 Oct 2020

Reason: In the interests of amenity.

Case Officer: Michelle Kwok