

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 1 March 2018

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth (Vice-Chairman), Roger Clark, Richard Darby, James Hall, Nicholas Hampshire, Harrison, Mike Henderson, James Hunt, Ken Ingleton, Nigel Kay, Peter Marchington, Bryan Mulhern (Chairman), Prescott and Ghlin Whelan.

Quorum = 6

	Pages
1. Fire Evacuation Procedure	
<p>The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.</p> <p>The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.</p> <p>The Chairman will inform the meeting that:</p> <p>(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and</p> <p>(b) the lifts must not be used in the event of an evacuation.</p> <p>Any officers present at the meeting will aid with the evacuation.</p> <p>It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.</p>	

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 1 February 2018 (Minute Nos. 462 - 468) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

5. Planning Working Group

To approve the Minutes of the Meeting held on 19 February 2018 (Minute Nos. 496 - 497).

17/505865/FULL – Land at Sondes Arms, Station Approach, Selling, Faversham, ME13 9PL

6. Report of the Head of Planning Services

To consider the attached report (Parts 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 28 February 2018.

7. Exclusion of the Press and Public

To decide whether to pass the resolution set out below in respect of the following items:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 5 and 7.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
7. Information relation to any action in connection with the prevention, investigation or prosecution of crime.

8. Report of the Head of Planning Services

To consider the attached report (Part 6).

Issued on Tuesday, 20 February 2018

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

1 MARCH 2018

Standard Index to Contents

DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

PART 1 Reports to be considered in public session not included elsewhere on this Agenda

PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 1 MARCH 2018

- Minutes of last Planning Committee Meeting
- Deferred Items
- Minutes of any Working Party Meetings

PART 2

2.1 Pg 1 - 6	18/500046/FULL	MINSTER	Summerwind, Augustine Road
2.2 Pg 7 - 12	17/506083/FULL	SITTINGBOURNE	Kimlee, Grovehurst Road
2.3 Pg 13 - 20	16/505211/FULL	NEWNHAM	Syndale Equestrian Centre, Seed Road
2.4 Pg 21 - 68	16/508602/OUT	FAVERSHAM	Land at Preston Fields, Salters Lane
2.5 Pg 69 – 80	17/503673/REM	SITTINGBOURNE	Proposed Park and Skate Park, The Wall
2.6 Pg 81 – 137	17/502338/FULL	DUNKIRK	Brotherhood Wood, Gate Hill
2.7 Pg 138 – 147	17/504037/FULL	MINSTER	172 Scarborough Drive

PART 5 - INDEX

Pg 148 – 150

5.1 Pg 151 – 152		SITTINGBOURNE	2 Howard Avenue
5.2 Pg 153 – 154		MINSTER	Well Pets Animal Hospital, 6A The Broadway
5.3 Pg 155 – 160		SHEERNESS	Seabreeze Park, Marine Parade
5.4 Pg 161 – 163		IWADE	35 Springvale
5.5 Pg 164 – 166		MINSTER	77 Augustine Road
5.6 Pg 167 – 168		FAVERSHAM	124 Athelstan Road
5.7 Pg 169 – 171		SHEERNESS	211 High Street
5.8 Pg 172 – 175		DUNKIRK	Amos Field, Denstrode Lane
5.9 Pg 176 – 185		HARTLIP	Windmill Farm, Yaugher Lane

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PLANNING COMMITTEE – 1 MARCH 2018

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/500046/FULL			
APPLICATION PROPOSAL Remove existing pitched roof. Form new first floor level with new pitched roof.			
ADDRESS Summerwind Augustine Road Minster-on-sea Sheerness Kent ME12 2NB			
RECOMMENDATION - Approve subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is acceptable in principle and would not be significantly harmful to residential or visual amenity.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster-On-Sea	APPLICANT Mr Adam Wilson AGENT Deva Design	
DECISION DUE DATE 05/03/18	PUBLICITY EXPIRY DATE 02/02/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/79/0977	ERECTION OF A BUNGALOW	APPROVED	26/09/1979

1.0 DESCRIPTION OF SITE

- 1.01 Summerwind is a detached bungalow located within the built up area boundary of Minster. It has a large section of hardstanding to the front and south east side of the property with an integrated garage. It has a grassed front garden and a large amenity space to the rear.
- 1.02 The property is located on Augustine Road which is characterised by a mix of dwellings of various scales and designs. There are two storey dwellings to the north west and the south east of the proposed development that extend to a height similar to the proposed extension.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the erection of a new first floor level with a pitched roof. This extension would create a two storey property with a total height of 7.35m.
- 2.02 The plans originally showed a balcony together with a bedroom served by a single flank window. The new drawings show the removal of the balcony in its entirety and the floor plan rearranged such that the flank windows now proposed are secondary windows to bedrooms or serve non habitable rooms. The drawings also show the conversion of the integral garage into a family room. This does not though require planning permission.
- 2.03 The proposed first floor extension will provide three new bedrooms, increasing the number from two to four (an existing ground floor bedroom would become an office).
- 2.04 The proposed materials include roof slates of a dark grey with Cedral flank cladding for the first floor and matching white UPVC windows.

3.0 PLANNING CONSTRAINTS

- 3.01 None relevant

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.
- 4.03 The Council’s adopted Supplementary Planning Guidance (SPG) entitled “Designing an Extension – A Guide for Householders”.

5.0 LOCAL REPRESENTATIONS

- 5.01 Four letters and emails of objection were received from neighbours. Their contents are summarised as follows:
- Noise levels from the balcony
 - Overlooking from the balcony
 - Loss of privacy
 - Loss of sunlight to side windows
 - Extension does not reflect the character and appearance of the existing building
 - Building line not in keeping with surrounding area
 - Cladding fascias and a balcony on the side elevation are not in keeping with surrounding properties
 - Concerns over increased noise and traffic
 - Obscured view of the sea

6.0 CONSULTATIONS

6.01 Minster-on-Sea Parish Council objects to the proposal, commenting as follows:

“Noting that insufficient information has been provided to make a fully informed decision, the Parish Council has no option but to object on the following grounds:

(i) The impact on the street scene will be adversely compromised if the roof line is not sympathetic. (ii) Parking provision for the five-bedroom property requires 3 spaces. Due to the lack of information, it is unclear whether parking provision is adequate. There are also concerns about the impact on the amenities neighbouring residents might reasonably be expected to enjoy.”

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 17/506378/FULL.

8.0 APPRAISAL

Principle of Development

8.01 The application is within the built up area boundary where the principle of development is acceptable subject to other considerations. In this instance the impact on the visual and neighbouring amenities must be considered.

Visual Impact

8.02 The addition of a first floor to a bungalow will have a significant influence on the street scene and potentially harm the visual amenities of the area. I do however, in this instance note that the properties surrounding Summerwind are all two storey and therefore, visually I do not believe that the addition of a first floor will be significantly harmful to the street scene, in fact I believe it will be more in keeping with designs observed along this section of Augustine Road.

8.03 Additionally due to the position of the property being set back 8m from the highway there will in my view be limited impact on the street scene with regards to overbearing.

8.04 I note concerns over the design of materials on the proposed extension but consider these acceptable for purpose and believe that the variation in design of other properties visible in the immediate area dictates an allowance for flexibility with regards to materials and design and therefore, although the proposed extension does not match the existing red brick, I consider it acceptable

8.05 The Council’s SPG suggests a separation of two metres on the side boundary for two storey extensions in order to prevent a terracing effect. In this case, this distance would be exceeded and therefore the extension falls in line with policy

Residential Amenity

8.06 The potential impact of the development on the immediate neighbouring properties must be carefully considered. In this case, four of the neighbouring dwellings have objected to the proposal for various reasons. Some concerns raised are the issue of overlooking/loss of privacy and loss of light due to the proposed first floor extension and associated balcony.

- 8.07 In relation to loss of privacy and overlooking, during the course of the application, revised drawings have been received which show the balcony omitted from plans and also the deletion of windows in the flank walls of the development that could harm the privacy of neighbours. All windows that remain on the first floor flanks serve non habitable rooms or are secondary windows serving bedrooms, and as such can be conditioned to be obscure glazed and high opening. In my view, the amended plans improve the scheme and do not allow neighbouring amenities to be significantly harmed.
- 8.08 On the issue of loss of light, Thorncroft, is to the north east of the site and there will be some loss of light due to the first floor addition. However, I do not consider this to warrant the refusal of the application. The proposed development would be 6 metres from this dwelling, which is sufficient to negate any significant harm. The proposed development lies further from Chaucer House to the south east – in excess of 7 metres. I do not envisage harm to the amenities of the occupiers of this dwelling by virtue of overshadowing or loss of outlook.
- 8.09 The rear facing windows are all considered acceptable as there is over a 21m distance to the nearest property to the rear so there will be no additional harms with regards to overlooking or loss of privacy.

Parking

- 8.10 The addition of another storey sees the addition of 2 new bedrooms to make the property a 4 bedroom house. With regards to parking provision I note that there is a large section of hardstanding to the south east side of the property which can comfortably accommodate the provision of 2 cars as required in guidance from the Kent Vehicle Parking Standards for 4 bedroom and above dwellings. Therefore I do not believe that this development will increase the amount of on street parking and consider this aspect of the application acceptable.

9.0 CONCLUSION

- 9.01 To conclude, the scale of the proposed works will have some impact on neighbouring residents and the street scene. However, I do not consider the proposal unacceptable for the reasons set out above. I therefore recommend approval.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) No other windows, doors, voids or other opening shall be inserted, placed or formed at any time in the flank walls of the development hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

- (3) Before the development hereby permitted is first used, the first floor flank windows in the south west and north east elevations shall be obscure glazed and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

- (4) The materials to be used on the external surfaces of the extension hereby permitted shall be in accordance with the details specified on the application form.

Reason: For the avoidance of doubt and in the interest of visual amenity.

- (5) The development hereby approved shall be carried out in accordance with the drawings DC/3291 and DC/3301.

Reason: For clarity and in the interests of proper planning.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.


In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

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



ITEM 2.1 18/500046/FULL - Summerwind, Augustine Road, Minster-on-Sea, Sheerness ME12 2NB
Scale: 1:1250
Printed on: 19/2/2018 at 14:59 PM by AngelaA



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2.2 REFERENCE NO - 17/506083/FULL			
APPLICATION PROPOSAL Demolition of existing garage and conservatory and erection of replacement detached garage, erection of two single storey side extensions and erection of new entrance gates.			
ADDRESS Kimlee Grovehurst Road Sittingbourne Kent ME9 8QZ			
RECOMMENDATION - Approve subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is acceptable in principle and would not be significantly harmful to residential or visual amenity, or to highway safety and convenience.			
REASON FOR REFERRAL TO COMMITTEE Parish Council objection			
WARD Bobbing, Iwade And Lower Halstow	PARISH/TOWN COUNCIL Iwade	APPLICANT Mr & Mrs Sutton AGENT Woodstock Associates	
DECISION DUE DATE 08/03/18	PUBLICITY EXPIRY DATE 06/02/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/85/0783	Use of part of rear garden as nursery erection of polytunnel and additional parking facilities.	REFUSED, ALLOWED ON APPEAL	13.09.1985
15/501847/FULL	Single storey pitch roof extension to the side of the property, single storey flat roof extension to the opposite side of the property leading to a new pitched roof garage and workshop extension, along with internal alterations.	APPROVED	27.04.2015

1.0 DESCRIPTION OF SITE

- 1.01 Kimlee is a detached bungalow located on a large plot. The property has a large garden and driveway to the front and to the rear is private amenity space.
- 1.02 The adjacent property to the west is Crosswinds, a children’s nurse and the remainder of the surrounding dwellings are residential.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the existing garage and conservatory at the property, and the erection of a new detached double garage, two side extensions and new entrance gates to the front of the property. The replacement garage will measure 6.5m in width and 7.5m in length, and will be located in roughly the same position as the existing garage, 0.5m from the boundary with neighbouring property No. 1 Kingfisher Close. The proposed garage will have a pitched roof with a ridge height of 4.5m.

- 2.02 The side extension on the west side of the property will project from the flank wall by 4m, and will have a length of 10.8m. It will have a flat roof with sloping sides, which will have a maximum height of 3.6m. The extension will provide an additional two bedrooms to the property and an en-suite bathroom. The side extension on the east side of the property will replace the existing conservatory. It will project from the flank wall of the existing dwelling by 2.5m and will have a length of 6m, slightly longer than the existing conservatory. It will have a flat roof with a height of 2.7m. The proposed side extension will facilitate the creation of a larger kitchen and utility room.
- 2.03 Amended drawings were submitted by the applicant who wished to erect entrance gates to the front of the bungalow. The drawings first submitted were deemed unacceptable from a highway safety perspective as the gates were not situated 5m from the rear of the footpath. I also considered the original design of the gates would result in them appearing incongruous when compared to the low fence panels either side of the gates, so recommended the design be revised. Amended drawings were then submitted addressing the issues raised above. The proposed gates will have a maximum height of 1.4m and will be situated 5m from the rear of the footpath to the front of the property. They will be constructed of wrought iron.
- 2.04 I note a similar application for planning permission was approved under 15/501847/FULL. The main difference between the applications is the position of the replacement garage. In the previous application, the garage was to be situated further back and connected to the house through the side extension to the east of the property. The previous application also did not propose entrance gates.

3.0 PLANNING CONSTRAINTS

- 3.01 Potential Archaeological Importance

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 4.02 Development Plan: Policies CP4, DM14 and DM16 of “Bearing Fruits 2031: The Swale Borough Local Plan 2017”.
- 4.03 The Council’s adopted Supplementary Planning Guidance (SPG) entitled “Designing an Extension – A Guide for Householders”.

5.0 LOCAL REPRESENTATIONS

- 5.01 None received

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council originally commented on the application stating they had no objections to the proposal, although they queried whether the work had been started. The Parish Council were re-consulted when amended drawings were received with the proposed entrance gates. The Parish Council then provided the following comment:

“The Parish Council raised no objection to the building works, but does object to the erection of new entrance gates. Councillors also object to the existing fencing to the front of the bungalow, as shown on the plan submitted on the

21st December. The height of this fencing obstructs the sight line and any vehicle exiting the property has to enter the road to obtain a clear sight line to the right, this can be hazardous. The Planning Section were (James Wilson is aware, as Cllr. James Hunt had discussed this with him) instructing the owner to take down this existing fencing and gates because of the sight lines.”

6.02 Kent Highways and Transportation state the proposal does not warrant involvement from the Highway Authority.

6.03 The County Archaeological Officer states that no archaeological measures are required in connection with the proposal.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 17/506083/FULL.

8.0 APPRAISAL

Principle of Development

8.01 The application site lies within the built up area boundary where the principle of development is acceptable subject to relevant policy considerations and local amenity impacts.

Visual Impact

8.02 The extension on the western side of the property incorporates a flat roof with sloping edges. Due the proposed roof not being entirely flat, I consider the design is acceptable. On the opposite side, the proposed side extension will have a flat roof. As this extension is of a small scale, I consider the flat roof will be acceptable in this case. The proposed double garage will have a pitched roof that matches the style of the roof on the main dwelling, and is therefore acceptable. I note the application form states the materials used on the proposed extensions and replacement garage will match those on the existing dwelling.

8.03 Regarding the proposed entrance gates, I consider their amended design acceptable and that they will not give rise to unacceptable harm to the character and appearance of the property or wider street scene.

8.04 Taking all of the above into account, I consider the proposal will not detrimentally harm the visual amenities of the area.

Residential Amenity

8.05 The proposed side extension to the west of the property will be constructed between 3.7m – 4.4m away from the common boundary with the adjacent nursery, Crosswinds. I note the flank wall of Crosswinds is a further 1.4m – 1.7m from the common boundary with the host property. When taking into account these distances, I consider this aspect of the proposal will not cause unacceptable harm to residential amenities.

8.06 On the eastern side of the property, a new side extension and detached double garage will be constructed. The proposed side extension will be built between 7.4m – 7.8m away from the common boundary with No. 1 Kingfisher Close. As such, due to

the distance involved, I consider the side extension will not adversely impact neighbouring amenities.

- 8.07 The proposed garage will be located between 0.4m – 1.4m from the common boundary with No. 1. I note the garage will project no further forward than the front wall at the adjacent property, and there will be no windows in the flank walls of the garage, and as such, the prospect of overlooking will be reduced. I consider the proposal is acceptable with regard to impact to residential amenities.

Highways

- 8.08 Regarding the proposed gates to the front of the property, the amended drawings show they will be located 5m away from the rear of the footpath, allowing space for a vehicle to pull in from the road when entering the property. Due to the location of the gates, set back from Grovehurst Road, vehicles exiting the property will be able to see oncoming vehicles and pedestrians. I consider the gates will not impair highway safety or convenience, and as such are acceptable.
- 8.09 The proposed double garage will measure 6.5m in width x 7.4m in length, which is larger than the KCC recommended minimum dimensions of 6m in width x 5.5m in length. A condition will be placed upon the garage to ensure it is only used for the parking of vehicles.
- 8.10 The comments of the Parish Council are noted. There was previously a fence affixed to the top of the front boundary wall. This was the subject of enforcement action and has now been removed. The fence referred to by the Parish Council, (a couple of panels, affixed to the ground either side of the access and located behind the front walls) does not require planning permission.

9.0 CONCLUSION

- 9.01 Taking into account all of the above, I consider the proposal will not give rise to unacceptable harm to visual or residential amenities and note following amendment, the proposed entrance gates are acceptable with regard to highway safety. As such, I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of visual amenity.

- (3) The development hereby approved shall be carried out in accordance with the following approved drawings: SU/17/147.03, SU/17/147.04, SU/17/147.05 and SU/17/147.06 rev C.

Reason: For the avoidance of doubt and in the interests of proper planning.

- (4) The garage hereby approved shall be kept available for the parking of vehicles and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed and submitted.

The application was considered by the Planning Committee where the applicant/agent has the opportunity to speak to the Committee and promote the application.

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



2.3 REFERENCE NO - 16/505211/FULL			
APPLICATION PROPOSAL Change of use of land for the siting of a mobile home and the construction of a new brick built tack building and lean to on to the stables, as amended by additional information submitted on 4 th October 2017 and 18 th December 2017.			
ADDRESS Syndale Equestrian Centre Seed Road Newnham Kent ME9 0NA			
RECOMMENDATION – Grant subject to conditions			
REASON FOR REFERRAL TO COMMITTEE: Parish Council Objection			
WARD East Downs	PARISH/TOWN COUNCIL Newnham	APPLICANT Mr & Mrs P Mead AGENT Acorus Rural Property Services	
DECISION DUE DATE 06/03/18	PUBLICITY EXPIRY DATE 25/10/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/504797/FULL	Retrospective application for new access.	Approved	14/11/2017
Enforcement Notice issued 18/04/2016	Without planning permission, the alterations to an existing field entrance, the installation of metal entrance gates and the laying of hard-surfacing, the approximate position of which is highlighted in yellow on the plan.	Appeal Dismissed	01/12/2016
SW/05/1405	Change of Use to keeping and grazing of horses, and as a livery yard with single storey stable block and storage area.	Approved	03/02/2006

1.0 DESCRIPTION OF SITE

1.01 The site is located on the southern edge of Newnham along Seed Road. The site is elevated from Seed Road with a thick screen of trees and hedgerow along Seed Road side and tall established trees and hedgerows bordering the other 3 sides. The site is surrounded by open countryside and whole site is within the Kent Downs Area of Outstanding Natural Beauty (AONB). Seed Road itself is also designated as a Rural Lane on the proposals map of the newly adopted Local Plan.

1.02 The site benefits from a 2006 planning permission for the erection of stables and use as a livery yard, submitted to and approved for previous site owners who lived nearby. The site has recently been purchased by the applicants who live in Sittingbourne.

2.0 PROPOSAL

2.01 The application as first submitted was simply for the change of use of land for the siting of a mobile home to supervise a full time livery equine business at this site. The mobile home is to be sited to the west of the stable block approximately 50m along at track from the recently approved access off Seed Road to provide accommodation to the owner and primary worker of the equine business and her family.

2.02 The mobile home is to enable a change to the business plan currently being offered here, which over the next three years will move to providing a full livery service for a reduced number of horses. The application is supported by a report which explains that;

- The site extends to 11 acres
- It includes 12 stables, 4 stables on skids, a store, an old classroom and a manege
- There are up to 20 horses at any one time
- It is proposed to offer more full livery services from the site, with DIY liveries being phased out by year three
- The site requires full time security and supervision but the applicant currently live a twenty minute drive away
- Since purchasing the site the applicants have invested heavily in it
- There is a need for one full time worker to live on the site for animal welfare reasons
- The applicants have prepared a business plan which suggests that once established the business could show a profit of over £4,000 per year

2.03 Since submission of the application, and in the light of enquiries which have revealed a number of unauthorised storage containers and new field shelters erected within the site, the application now also seeks permission for a new brick built room to securely house the tack required by the business. The building is to be positioned to the north of the existing smaller 3 stable block and the “classroom” building. This store is to measure 3m in width and 3m in depth with a pitched tiled roof to 2.1m to the eaves and 3.1m to the roof ridge.

2.04 A lean to extension is also to be constructed to the east of the original stable block building, to be constructed of timber posts and fibre cement roof panels. It is to measure 10.7m in length and 3.8m in width and provide shelter for feed and hay.

2.07 It is further proposed that in line with the business plan to provide a full livery service for 11 horses the additional stables/field shelters and containers on the site are to be removed.

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS
Potential Archaeological Importance

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF) Para 28, 115, 196
Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies DM3, DM12, DM14 and DM24
Planning Supplementary Documents: The Erection of Stables and Keeping of Horses

5.0 LOCAL REPRESENTATIONS

5.01 I have received two letters of support from local residents saying, in summary;

- fully support this application- hard enough to earn a living today but to live so far away from your premises especially when livestock is involved must be hard
- to allow this application would enhance the future for this family.

- a positive move to be encouraging our younger qualified members of the community to be setting up appropriate facilities for the equestrian sport
- vast improvements have been made and this planning application will enable the applicants to continue investing in the improvements knowing that by living on site they are finally able to create a safer & more secure environment.

5.02 I have also received one letter of objection saying, in summary;

- In principle not against temporary planning permission for a mobile home to enable the applicant to carry out her business, but I do not want it used as a back door to get planning permission for a dwelling in a position where otherwise it would be denied as it is in the AONB.
- concerns about sustainability if the business increases in size due to the limited grazing and the issues of the access.
- The original PP was for 9 stables, there now appear to be 18 plus a manege.

5.03 Swale Footpaths Group commented that they didn't think this would affect footpath ZR 295.

6.0 CONSULTATIONS

6.01 Newnham Parish Council (August 2016) commented;

"We believe the current use is for 9 stables with DIY livery, NPC considers a change of use would be required.

No business plan has been made available.

The area is an AONB and Para 115 NPPF states "Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

Swale Borough Council's Planning and Development Guideline No 7 entitled The Erection of Stables and Keeping of Horses paragraph 12.2 states "security is a problem which should be addressed at the early stages of planning... the existence of stables requiring supervision cannot be used to justify the erection of a dwelling in an area where this would not normally be permitted".

However, should SBC grant permission we respectfully request that any permission is of a temporary nature only, in order that the business can be proven. Secondly, that any permission is made personal to the current proprietors, including occupation of the mobile home, and is not transferable on the sale of the business."

6.02 Following the submission of additional information in October 2017 they commented that their concerns remained the same as previously stated.

6.03 Following the revised information submitted in December 2017 they maintained their objection stating they;

"felt the new additions to the plan would improve the facilities. However, this additional information does not detract from their original objections which included that:

Newnham Parish Council objects to siting of mobile homes in conservation areas and AONB. There was still no business plan provided with the application. However, if SBC are minded to give approval, we would like a condition attached which makes the approval personal only to the applicant and should the business fail the mobile home to be removed.”

- 6.04 The Council’s Rural Planning Consultant was supplied with a confidential Business Plan and commented that;

“(the) proposal is understood to be for a temporary 3 year consent to enable the applicants’ existing equestrian business to be developed from a mainly DIY livery venture (currently 10 horses are stabled) to a mainly full livery yard, utilising the majority of the 15 stables available on the premises.”

- 6.05 He further stated that;

“Financial information submitted on behalf of the applicants indicate that the unit has not yet been able to provide sufficient income for a full-time livelihood, however a transition to providing mainly full livery services is predicted to achieve an adequate return on this regard. It appears unlikely that this could be achieved, however, without a residential presence on site, giving horse owners confidence that their animals will be attended to in the event of any emergency arising, day or night. These functional concerns are more fully set out in the applicants’ agents’ Statement. It is not possible for this level of care and security to be provided at present, from the applicants’ current home in Sittingbourne.

Clearly the success of the proposal will largely depend on the ability to attract and retain sufficient full livery customers. The applicants appear confident that they have identified a good level of demand in this regard, from existing contacts, but of course it would only really be possible to judge this in practice once they were able to live on site.”

Following submission of revised and additional details in October 2017 he commented that the revised business plan shows a slightly smaller overall net profit to that envisaged last year, but otherwise the advice remains as set out in 2016

- 6.06 The County Archaeological Officer confirms that no archaeological measures are required in connection with the proposal.
- 6.07 The Environmental Health Manager has confirmed that he has no objections to this application although he has recommended details should be provided as to site layout, with particular reference to source of power, animal waste storage, drainage and sewage facilities plus locations of any non-mains on-site sewage treatment.

7.0 APPRAISAL

- 7.01 This site has operated as a livery yard since 2005 when planning application SW/05/1405 was granted permission subject to various conditions that included:
1. 9 stables (plus a hay store and 2 tack rooms)
 2. Required access ONLY from the “Tapster car park entrance” and NO OTHER access to the site to be used
 3. No more than 1 horse or pony per acre of grazing land to be kept on the site

4. The site shall only be for a livery yard and no event or show is to be held
 5. With the exception of 1 trailer for manure no external storage of items or materials inc jumps/caravans/mobile homes/vehicles or trailers to be stored on site
- 7.02 Over time the number of stables and containers on the site has increased to the point currently where the increase is unacceptable and unsustainable given the facilities and size of the site.
- 7.03 I consider that given the size of the site, its position within the AONB and the previous planning approval at the site, that up to an absolute maximum of 11 horses could be accommodated here, especially given the availability of grazing land. Given that there is currently a previously approved 9 stable block with additional storage facilities already on site that can be utilised the retention of a maximum of not more than two further stables can be supported by the Council, as this will provide an isolation block for sick horses taking the full livery service.
- 7.04 Further discussions with the applicants have taken place regarding the future livery service and how this can be accommodated without the unauthorised buildings, stables and containers that are currently on the site. Amended drawings were received on 18th December 2017 and these show the provision of a brick built secure building located close to the isolation block which will be for tack. Additionally a timber framed lean-to is to be provided as cover for the feed and hay etc the business would require. This is to be sited to the east of the stable block building. With these in place the remaining unauthorised buildings, stables and containers would need to be removed from site over the first 12 months and this has been agreed by the applicant. A plan showing buildings to be removed has also recently been submitted.
- 7.05 The original submission and business plan was initially based on accommodating up to 15 horses on a full livery basis, and this in turn supported the need for a mobile home on the site. However, given the issues regarding the unauthorised stables and containers on the site this would not be possible. Therefore, revised figures and projections were submitted which showed how the business would function and prosper given a maximum of 11 horses being on site. Following a review by our Rural Consultant, he has concluded that a viable business can be run on this basis sufficient to support a temporary mobile home being located on the site.
- 7.06 The site is located within the AONB and as such is afforded the highest status of protection. The mobile home is proposed to be located to the south of the site adjacent to the track that runs from the access and it would be located with a very limited view from outside the site. A thick and established boundary hedge runs adjacent to Seed Road. Additionally the reduction in the number of horses on the site will result in the land not being overgrazed or the appearance of the land becoming substandard contrary to its status.
- 7.07 Additionally, this is a temporary permission and, as such, after 3 years were the applicants to be able to prove that a viable business can be run from the site then the temporary accommodation could be replaced with more suitable permanent accommodation alternatively if the business was found not to be viable then the mobile home would need to be removed .
- 7.08 Access to the mobile home will be via the newly approved entrance off Seed Road which was granted planning permission as the applicants are being prevented from using the previously approved access to the site.

7.09 I note the objections to the application, notably from the Parish Council, but their objection to all mobile homes in conservation areas and AONB should not be given significant weight as each application must be considered on the individual merits of the specific individual case. Additionally a business plan has been provided with the submission (though it is confidential due to financial information contained within) and this has been assessed by the Council's Rural Planning Consultant prior to him providing his expert advice. Finally, I agree with the Parish Council that conditions do need to be attached to any permission to ensure that in recommending a temporary permission it provides the applicants time to develop and establish a successful business here and indeed should that not be the case a condition has been attached to require the removal of the mobile home. Additionally a condition has been recommended which requires that the permission is made personal only to the applicant.

8.0 CONCLUSION

8.01 The application seeks to provide temporary residential accommodation on this site to enable a full service livery business to be established from the current equestrian business operating at the site. The additional benefits of the scheme ensure the removal of unsightly storage and unauthorised structures/buildings from the site, particularly important given its location being within the Kent Downs AONB. This is a temporary permission to give the business time to grow but also so the situation can be reassessed in 3 years time.

9.0 **RECOMMENDATION** – GRANT Subject to the following conditions:

CONDITIONS

- (1) Within 12 months of the siting of the mobile home all the storage containers and the stables and buildings highlighted on Drawing named Plan 1: Buildings/Storage Removal dated 06.02.18 shall be removed from the site.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area

- (2) The mobile home hereby permitted shall be removed and the site restored to its previous condition on or before 1st March 2021.

Reason: In order that the position may be reviewed at the end of the period stated.

- (3) The approved mobile home shall only be stationed on the site in accordance with the details shown on the submitted drawings Plan 200-01 received on 18th December 2017.

Reasons: In accordance with the terms of the application and in the interests of the amenities of the area

- (4) This permission shall endure solely for the benefit of Mrs Mead and only whilst she is solely or mainly employed at Syndale Equestrian Centre at Seed Road, Newnham and for no other persons.

Reason: As permission has only been granted in recognition of the special circumstances of Mrs Mead.

- (5) Prior to the occupation of the mobile home details of the site layout, with particular reference to source of power, animal waste storage, drainage and sewage facilities plus the locations of any non-mains on-site sewage treatment shall be submitted to and approved by the Local Planning Authority. These approved details shall then be implemented and retained as such thereafter.

Reason: In the interests of

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance

The applicant/agent had the opportunity to present the application to committee

The applicant/agent was provided formal pre-application advice.

INFORMATIVE


- (1) Conditions (4), (5), (10), (11) and (12) of the original planning permission SW/05/1405 continue to have full force and effect.

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.



ITEM 2.3 16/505211/FULL - Syndale Equestrian Centre, Seed Road, Newnham ME9 0NA
Scale: 1:2500
Printed on: 19/2/2018 at 15:31 PM by AngelaA



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REPORT SUMMARY

2.4 REFERENCE NO - 16/508602/OUT		
APPLICATION PROPOSAL Outline application for erection of up to 250 dwellings with all matters reserved except for access		
ADDRESS Land At Preston Fields Salters Lane Faversham Kent ME13 8YD		
RECOMMENDATION Approval subject to a Section 106 agreement and conditions as set out below. See also paragraph 11.0 below.		
SUMMARY OF REASONS FOR RECOMMENDATION The development of up to 250 houses will provide much needed houses on an allocated housing site (see Policy A16 of Bearing Fruits 2031). The development would be in accordance with the Local Plan in this respect. The application has been considered against all other relevant policies within the Local Plan and the NPPF, and I have not identified any harm arising from the development that cannot be adequately mitigated.		
REASON FOR REFERRAL TO COMMITTEE Town Council objection		
WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Preston Field Land Trustees AGENT HOW Planning
DECISION DUE DATE 11/04/17	PUBLICITY EXPIRY DATE 14/09/17	OFFICER SITE VISIT DATE 01/02/17
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): A request for a Screening Opinion was made under the EIA Regulations for the residential development of the site. The Council concluded that the development did not require the submission of an Environmental Statement and was not EIA development. 16/505890/ENVSCR. Members may recall the approval of a planning application – on 27 March 2017 - for a mixed use development of housing (310 dwellings) and commercial use, including B Class uses, a hotel and care home (15/504264/OUT) at Perry Court – land to the west of the application site at Preston Fields and on the opposite side of Ashford Road (A251). The adjacent land – Orchard Cottage is the subject of the current planning application 17/502521/FULL		

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is located to the south of Faversham on the south side of the A2 and approximately 340m from the town centre boundary. It lies 200 metres to the east of the junction between the A251 and the A2 and 80 metres to the west of Rose Terrace, which in turn is located just west of the junction. The site is a total of 10.25 hectares (25.9 acres) and comprises of a large agricultural field. Part of the site lies

immediately to the east of the Faversham Town Conservation Area and 82 metres to the east of Orchard Cottages, a pair of early C19 semi-detached Grade II listed buildings. Preston-Next-Faversham Conservation Area lies 48 metres to the east of the site. A commercial business is run from the land at Orchard Cottage supplying traditional building materials and training events. Access to that site is from the A2 and lies 14 metres from the western boundary of the application site. Cherry Tree Cottages – Grade II listed buildings - lie 53 metres to the north-east of the application site and on the opposite (northern) side of the A2.

- 1.02 The majority of the western boundary of the application site abuts the rear gardens of properties fronting Ashford Road (A251). Faversham Laundry lies approximately 70 metres to the west of the site boundary. The majority of the eastern boundary abuts a KCC Highways depot and a Household Waste and Recycling Centre both of which are accessed off Salters Lane – a Rural Lane as designated under Policy DM26 of Bearing Fruits 2031: the Swale Borough Local Plan 2017 (SBLP). Part of the eastern boundary also adjoins what appears to be an inactive scrap metal yard and a small plot of land that is used as paddocks/open storage and Salters Lane. A short section of the eastern boundary also adjoins an Ambulance Station, which fronts onto the A2. The southern boundary of the application site adjoins agricultural fields that are within the same ownership as the application site. The wider surrounding area is characterised by open agricultural fields to the east, south and west. Suburban housing lies to the north of the site at a low-medium density. Beyond that, Faversham Town Centre is characterised by medium-high density housing and a mix of commercial uses. Abbey School – a Secondary Academy - lies 480 metres to the west of the application site.
- 1.03 The southern boundary of application site lies 252 metres to the north of the M2. The applicant has indicated with a blue line that they own the intervening land between the application site and the M2. There is an access track that crosses the 'blue land' from Salters Lane providing access to rear parking for a few of the properties fronting and close to Ashford Road. The land immediately to the south of the M2 is designated as an Area of High Landscape Value under Policy DM24 of the SBLP. Approximately 1.32km to the south of the site, and beyond the M2, lies the Kent Downs Area of Outstanding Natural Beauty (AONB). The site lies approximately one mile to the south of the Swale Special Protection Area (SPA), Special Area of Conservation and Ramsar site, which are designated on account of their ecological value.
- 1.04 The boundaries of the site largely consist of vegetation of varying heights, although some of the rear gardens of the Ashford Road properties have 1.8 to two-metre high close boarded fences. A two-metre high palisade fence runs along the majority of the eastern boundary of the site to secure the KCC Highways depot and the Household Waste and Recycling Centre. Where the site adjoins the A2, vegetation is sparse and the site is open to views from that road.
- 1.05 There is currently one vehicular access to the application site, from Ashford Road (A251) that is used by the farmer to access the fields. There is a bus stop on the A2 immediately to the north of the application site.
- 1.06 The land levels vary markedly across the site. The site gently rises from north to south with a more significant slope from west to east where the land falls by approximately five metres. Salters Lane sits above the level of the application site by approximately five metres. The Orchard Cottage site also sits higher than the application site by approximately three metres. At the front (north) of the site, the height above Ordnance Datum (AOD) is typically in the range 19 to 21 metres, while

where the site adjoins Salters Lane (in the south-eastern corner), the typical height AOD is 27 metres, but drops down to approximately 24 metres towards the centre of the site. Where the site adjoins Ashford Road (between Numbers 93 and 97), the height AOD is typically between 34 and 35 metres AOD.

1.07 The application site falls within a housing allocation that is included within the SBLP – Policy A16 which seeks to enable the provision of a minimum of 217 dwellings, and which is set out in full below.

1.08 A high-pressure gas pipeline crosses the site from east to west close to its southern boundary.

2.0 PROPOSAL

2.02 This is an outline planning application for the provision of up to 250 dwellings within the site. Members will note that all matters, other than access, are reserved for future consideration in the event that planning permission is granted.

2.03 The Design and Access Statement sets out that the dwellings would be a maximum of 2 storeys in height and a mix of 2, 3, 4 and 5 bedroom properties. Two vehicular accesses are detailed at this stage with one provided onto the A2 and the other onto the A251. The access onto the A2 would lie roughly opposite no. 2 Preston Park and would be approximately 50 metres to the west of the Ambulance Station. The applicant proposes a simple priority junction with visibility splays shown as 2.4m x 69m. The access onto the A251 would be between nos. 93 and 97 Ashford Road with visibility splays of 2.4m x 114m. It would make use of an existing farm access and would require a ghost junction arrangement allowing vehicles to wait in the centre of the carriageway when turning right into the site.

2.03 The Illustrative Masterplan shows pedestrian access into the site from the adjacent Orchard Cottage land and out of the site to the proposed open space to the south. The Illustrative Masterplan shows houses laid out in a linear form reflecting the shape of the site. Some houses are arranged in perimeter blocks and there is a central green corridor that links the open space to the south to the open space to the front of the site, adjacent to the A2. A footpath is shown along this green corridor. A childrens’ play area, attenuation pond and community orchard are shown to be provided towards the southern end of the site. The total area of open space is shown to be 3.15 hectares. A second attenuation pond would also be provided within the open space to the north of the site.

2.04 The indicative masterplan also shows a large area of land (3.52 hectares) to the south as being within the control of the applicant, but outside the application site boundary. This land is intended to function as natural, accessible open space and structural planting is indicated as being provided along the southern and eastern boundaries.

2.05 The indicative masterplan also shows planting along the east and west boundaries of the site and along the central green corridor.

3.0 SUMMARY INFORMATION

	Proposed
Site Area (ha)	10.25 ha (25.9

	acres)
Approximate Ridge Height (m)	8.5m (max)
No. of Storeys	2
No. of Residential Units	Up to 250
No. of Affordable Units	35% of total dwellings (88 of 250)
Open space on site	3.15 hectares
Open space off site	3.52 hectares
Density	35 dwellings per hectare

4.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Adjacent Conservation Area Faversham and Preston-next-Faversham

High Pressure Gas Pipe - Inner Zone

Landfill Waste Disposal Site PRESTON FORGE

Source Protection Zone 2 for groundwater

5.0 POLICY AND OTHER CONSIDERATIONS

Development Plan

5.01 Swale Borough Local Plan 2017: Bearing Fruits 2031 - ST1 (sustainable development), ST2 (targets for homes and jobs), ST3 (settlement strategy), ST4 (meeting local plan development targets), ST7 (The Faversham Area and Kent Downs Strategy), CP2 (sustainable transport), CP3 (high quality homes), CP4 (good design), CP5 (health and wellbeing), CP6 (community facilities and services to meet local needs), CP7 (conserving and enhancing the natural environment - providing green infrastructure), CP8 (conserving and enhancing the historic environment), A16 (Land at Preston Fields), DM6 (managing transport demand and impact), DM7 (vehicle parking), DM8 (affordable housing), DM14 (general development criteria), DM17 (open space, sports and recreation provision), DM19 (sustainable design and construction), DM21 (water, flooding and drainage), DM24 (conserving and enhancing valued landscapes), DM26 (Rural Lanes), DM28 (biodiversity and geological conservation), DM29 (woodland trees and hedges), DM31 (agricultural land), DM32 (development involving listed buildings), DM33 (development affecting a conservation area), DM34 (Archaeological sites), IMP1 (implementation and delivery plan).

Policy A16 - Land at Preston Fields, Faversham – which allocates the land for residential development – reads as follows:

“Planning permission will be granted for a minimum of 217 dwellings, landscape and open space on land at Preston Fields, Faversham, as shown on the Proposals Map. Development proposals will:

1. *Accord with Policy CP4, in particular, demonstrating an integrated Landscape Strategy and a Landscape and Ecological Management Plan that shall include:*
 - a. *a large area of accessible natural greenspace in the southern part of the site, including a substantial area of woodland, orchard and meadow planting to help absorb the development into the wider landscape;*
 - b. *a green corridor running through the centre of the development along the valley bottom;*
 - c. *retention of a corridor view to Faversham and Preston Parish Church towers;*
 - d. *a large green space adjoining Canterbury Road and the Conservation Area; and*
 - e. *woodland/tree belt buffer on the north eastern boundary.*
2. *Be of a high quality design, of mostly two storeys in height responding appropriately to the local character and distinctiveness of the Preston-next-Faversham Conservation Area;*
3. *Through both on and off site measures, ensure that any significant adverse impacts on European sites through recreational pressure shall be mitigated in accordance with Policies CP7 and DM28, including a financial contribution towards the Strategic Access Management and Monitoring Strategy;*
4. *Provide pedestrian and cycle links within the development and to the adjacent network;*
5. *Achieve a mix of housing in accordance with Policy CP3, including provision for affordable housing in accordance with Policy DM8;*
6. *Submit a detailed heritage assessment to consider the significance of the impact of development at the local level on the heritage setting of the town and other heritage assets in accordance with policies DM32 and DM33. An archaeological assessment should consider the importance of the site and, if necessary propose mitigation;*
7. *Submit a noise assessment and implement any mitigation arising;*
8. *Address air quality impacts arising in the Ospringe AQMA, including the implementation of innovative mitigation measures;*
9. *Be supported by a transport assessment, to determine the need and timing for any improvements to the transport network, the phasing of development, the options for accessing the site and any transport improvements arising which shall be subject to developer contributions/provision; and*
10. *Provide the infrastructure needs arising from the development, including those identified by the Local Plan Implementation and Delivery Schedule, particularly health and education provision.”*

Kent Minerals and Waste Local Plan (KMWLP) (2016): Policies CSM5 (minerals resources); DM7 (safeguarding); DM9 (prior extraction).

National Planning Policy

- 5.02 The National Planning Policy Framework (NPPF): paragraphs 7 (three dimensions of sustainable development), 8, 11 (presumption in favour of sustainable development), 12, 14, 17 (core planning principles), 30, 32, 36 (sustainable transport), 42 (high quality communications infrastructure, including broadband), 47, 50, 55, (delivering a wide choice of high quality homes), 56, 57, 58, 61 (good design), 69, 70, 72, 73, 75

(healthy communities); 103 (flood risk), 109 (natural environment) 110, 112 (agricultural land), 115 (AONB) 118, 119 (biodiversity), 120, 121 (contaminated land), 123 (noise), 124 (air quality), 128, 129, 131, 132, 137 (heritage), 142, 144 (minerals) 162 (infrastructure), 186, 187 (decision taking), 196, 197 (determining applications); 203, 204, 206 (planning obligations).

- 5.03 National Planning Policy Guidance (NPPG): Air Quality; Noise; Minerals; Design; Conserving and enhancing the historic environment; Natural environment; Planning Obligations; Use of planning conditions; Travel plans, transport assessments and statements; Water supply, waste water and water quality; Land affected by contamination; Flood Risk and coastal change; Open Space, sports and recreational facilities, public rights of way and local green space.

Supplementary Planning Documents

- 5.04 Developer Contributions (2009)

- 5.05 Swale Landscape Character and Biodiversity Appraisal SPD (2011). The application site is identified as lying within the Faversham and Ospringe Fruit belt. The landscape is generally in a good condition with moderate sensitivity to change. The guidelines recommend that this landscape should be conserved and positive characteristics reinforced.

6.0 LOCAL REPRESENTATIONS

- 6.01 Thirty-five representations have been received from local residents. A summary of their comments is as follows:

Highways:

- Concerns about the location of the access onto the A2 and its proximity to other accesses nearby – potential for accidents;
- The development will add to congestion on local roads (which is considered to be significant, particularly on the A251 and the A2);
- The conclusions of the submitted Transport Assessment are doubted. It does not take account of all of the planned development in the area – including land adjacent Western Link Road and land north Graveney Road, both of which have planning permission;
- Minimal pedestrian crossings along the A2, which is therefore difficult to cross;
- The access onto the A251 is too close to an existing private road and the road is too narrow at that point to allow safe turning into and out of the site;
- Cycling will become even more dangerous on local roads due to an increase in traffic;
- There is no pedestrian crossing on the A251 and no footpath along one side;
- Pedestrian bridges or underpasses should be provided by the developer for pedestrians crossing the A2 and A251;
- A rat-run will be created through the development to cut out traffic on the A2/A251;
- There is no pedestrian access to Abbey School from the site;
- Concerned that if the junction improvements secured through the Perry Court scheme don't come forward, the Preston Fields development will not have adequately mitigated against the highway impact;
- The Brenley Corner roundabout [Junction 7 of the M2] is already overcapacity;

- Highways England had concerns about the submitted highway information [their comments are summarised at paragraph 7.09 below];
- The grass verge opposite the Ashford Road properties is not highway land but is privately owned;
- Information provided about incidents of road traffic accidents on the M2;
- There should be no loss of the bus stop outside Preston Fields as part of the proposal;
- The relocated bus stop would be within the visibility splays for an existing access;
- The proposed pedestrian crossing point outside the Ambulance Station would be dangerous;
- Relocated highway signs should not encroach on private land and should not result in trees/hedges being cut back.

Environmental:

- The development will add to air pollution. The submitted air quality assessment over-estimates improvements in air quality;
- Prime/best and most versatile agricultural land [namely Grades 1,2 and 3a] would be built on;
- Extra light pollution;
- Impact on/loss of nature/wildlife;
- Questions over the robustness of the archaeological report.

Infrastructure:

- There is too much development planned in Faversham and not enough infrastructure and amenities to cope;
- Need for extra school places and medical facilities;
- Disturbance to residential amenity during construction;
- There is no overall plan for development in Faversham [Members will note that the site is one of a number allocated in the Swale Borough Local Plan 2017];
- There should be a balance between the provision of housing across the Borough as a whole [Members will appreciate that the Swale Borough Local Plan 2017 seeks to achieve this].

General:

- This site is a better location for development than Perry Court [see outline planning permission 15/504264/OUT] as it will have less visual impact;
- Concern about the loss of high-quality greenfield sites close to the AONB;
- Being south of the A2 and disconnected from Faversham Town Centre, new residents will be more likely to travel to the town by car as opposed to crossing the busy A2;
- The development is at odds with the Town Action Plan 2020 [which is not referred to in the adopted Local Plan, Bearing Fruits 2031], which seeks to enable the town to reconcile its important historic heritage and character with a more controlled rate of growth;
- Loss of privacy to Ashford Road properties;
- This development and the Perry Court development will change the character of the area from rural to urban;
- Residents from the development will walk to the town via Preston Park, adding to existing anti-social behaviour;
- Development on the south side of the A2 is not sustainable;

- Concern that the application was 'premature' [the application was submitted prior to the adoption of the Local Plan, though Members will appreciate that the Plan has now been adopted];
- There is no need for this development;
- Villages should be expanded instead of Faversham town.

6.02 The South East Ambulance Service has no objection to the proposal.

6.03 The Mayor has submitted some comments on the proposal and asks that consideration is given to safeguarding a route for a potential future road running east-west across the southern end of the site as a way of relieving pressure along the A2. Alternatively, a road could be provided to the rear of the Ashford Road houses. The pedestrian and cycle routes through the site are commended. She suggests that the houses close to the town could be higher density and she encouraged a good mix of house types including disabled and bungalows. Roofs should face south and there should be electric car charging points provided within the development. Allotments instead of a community orchard is suggested. Suggestions of part of the site being used for a park and ride and light industrial development are given and self-build or community trust land was suggested.

7.0 CONSULTATIONS

7.01 Faversham Town Council object to the application on the grounds that further information is needed on traffic, noise and air quality impacts. They also state that there is an unknown impact from other developments around the town in terms of traffic and that the scheme is of a poor design in terms of the siting of the community orchard and play area.

I have re-consulted the Town Council on the Technical Note, January 2018, but at the time of writing this report had not received any response from them.

7.02 The Rural Planning Consultant notes that the application site is allocated for housing within the adopted Local Plan and that, having considered [as part of the process leading to the adoption of the Local Plan] land of a lesser quality, the loss of best and most versatile agricultural land was considered necessary in terms of the planned growth of the Borough.

7.03 The Health and Safety Executive do not advise against the development on safety grounds in terms of the presence of a high pressure gas pipeline. They provide guidance on housing development within the inner, middle and outer zones of the pipeline noting that there should be no more than two dwellings within the inner zone and no more than 30 dwellings or 40 dwellings per hectare in the middle and outer zones. They recommend consulting the pipeline operator – Southern Gas Networks. Members will note condition (23) below, which is designed to ensure that these stipulations are satisfied.

7.04 Southern Gas Networks do not advise against the development but note that there is a critical valve for the high pressure gas pipeline and the developer needs to design around the fenced off area. They also note that all works will need to be hand-dug within 3 metres of the pipeline and that there should be no properties within the building proximity distance (9m either side) of the pipeline and easement (8 metres in width – 4m either side). Vehicle crossings should be at 90 degrees to the pipeline. Members will note condition (11) below, which requires the submission and approval

- of a Code of Construction Practice, which will include a section to address these points.
- 7.05 Kent Police note that there has been no communication with them by the applicant to discuss the reduction and prevention of crime. They recommend a condition to require further details of how the development will incorporate measures to minimise the risk of crime.
- 7.06 KCC Ecology note the need for a payment (of £281 per dwelling) to be made towards mitigation measures against recreational disturbance within the Special Protection Area. They are satisfied with the surveys undertaken in respect of bats, reptiles and great crested newts. The surveys identify that there is limited potential for protected species to be found on site but recommend a precautionary approach. They recommend a condition to secure this precautionary approach. They note the presence of Japanese Knotweed and suggest a condition to ensure that this is safely removed from the site. They also recommend a condition to secure ecological enhancements within the development.
- 7.07 The Head of Housing seeks to secure 35% (88) affordable housing across the development. The mix of affordable properties should be proportionate to the open market homes and evenly distributed across the site. There should be a 90:10 split in favour of affordable rented housing – 79 affordable rent and 9 shared ownership. They seek a small number (namely four units) of “adapted” affordable housing.
- 7.08 Natural England do not object to the application but note the requirement for contributions towards the Swale SPA and Ramsar site. They note that the site is close to the AONB and advise the Local Planning Authority (LPA) to consider local and national policy guidance on this potential impact. They also advise the LPA to consult with the relevant AONB Partnership or Conservation Board.
- 7.09 The Environmental Protection Team Leader notes that the site lies close to (1.2 kilometres east of) the Ospringe Air Quality Management Area (AQMA). He notes that an Air Quality Assessment has been submitted with the application and that this identifies that only one site receptor, at 21 Ospringe Street, would exceed the annual NO₂ (nitrogen dioxide) mean value of 40 µg/m³. The report states that this location is already exceeding this value and will continue to do so without this development even taking place. It considers that at this, and at all the other receptor points, the impact of this development is ‘not significant’ using the IAQM and EPUK guidance. The Air Quality Assessment had originally suggested that no mitigation measures were required. However, following discussions, further information was submitted to set out a Damage Cost Calculation of £225,513 and various mitigation measures. The Environmental Protection Team Leader accepts the Damage Cost and mitigation measures proposed.
- 7.10 In terms of noise, the application is accompanied by a noise report. The Head of Environmental Protection notes that the main noise sources identified are from road traffic noise from the A2 and M2 as well as the KCC Depot and waste recycling centre and Faversham Laundry. The noise report identifies that mitigation measures in the form of improved glazing would be necessary for properties within the site, a two-metre-high noise barrier along the eastern boundary with the KCC depot and A2 and a 57m buffer zone for the A2 and M2. A four-metre high bund close to the boundary with the M2 was suggested but later removed following discussion with the applicant. The supplemental noise report concludes that the four-metre-high bund is not necessary. He notes that some external areas of the development would exceed 55 db (decibels) but that in accordance with Government

Guidance, this can be accepted where necessary. The phase 1 contaminated land assessment concludes that an intrusive investigation is necessary and the Environmental Protection Team recommends a suitably worded condition to secure this.

- 7.11 The Lower Medway Internal Drainage Board confirm that the site is outside of their district. Should off-site discharge be proposed, it is essential that runoff rates are not increased beyond that of the Greenfield site.
- 7.12 Highways England originally objected to the scheme on the grounds that inadequate and possibly inaccurate information had been submitted in respect of the impact of the scheme on the strategic highway network. They were particularly concerned about the impact on junctions 6 (southern junction, with the A251) and 7 of the M2 (with the A2 and A299). They noted that traffic counts took place at the end of the school year when traffic was not typical and questioned the assumption made on traffic distribution. They were also concerned about the impact of the access onto the A251 in respect of potential queuing along the A251 onto the M2 junction 6 turn-off. Consequently they requested that a full right-hand turn lane into the application site was provided. They requested a Non-Motorised Audit and Road Safety Assessment be submitted. They also asked for an assessment of junction 6 (south) of the M2 and identified that junction 7 of the M2 is already at capacity and is very sensitive to additional traffic. Further evidence was required to consider the impact on this junction noting that any assessment should consider the end of the Local Plan period. Following the receipt of further information on the highway impact, to address their concerns, Highways England comment that they are now content that the technical assessment of the impacts on the strategic road network is fit for purpose and reasonable. They recommend securing a contribution through a Section 106 agreement for improvements to the A2/A251 junction (of £87,000). In respect to M2 Junction 7, they have examined the contributions provided from the nearby Perry Court and Love Lane consented schemes to calculate what they consider to be an appropriate contribution to the scheme. They request a sum of £53,200.
- 7.13 The Environment Agency (EA) originally objected to the application on the grounds that insufficient foul drainage information had been provided to demonstrate that the site, being located within Source Protection Zone 2 for groundwater (very sensitive), would not be harmful to groundwaters. They requested confirmation that the foul drainage would be connected to the public foul sewer and also that the local sewage undertaker confirmed that there was capacity to accept foul sewage from this development. They have reviewed the Additional Drainage Works document produced by Royal Haskoning, which is dated May 2017.

The document provides a clear indication that the foul drainage solution for this site will be to connect to the public foul sewer. The document recommends that 'a planning condition is attached to the planning permission to ensure that the S98 sewer requisition is undertaken at the detailed design stage of the project'. They agree with this recommendation, and reiterate their previous comments that we would object to any alternative methods of foul disposal given the size of this development.

- 7.14 Southern Water confirm that they cannot accommodate the needs of the development without the provision of additional local infrastructure. They suggest a condition to secure this. They note that surface water drainage cannot rely on public surface water sewers as there are none in the area. They note that the application

details make reference to SUDs and that long term maintenance of these should be secured.

- 7.15 KCC Flood and Water Management initially stated that insufficient information had been provided in respect of water flow routes from off site – in particular, the existing culvert under the M2. If this water flow is not managed correctly, there is potential for on-site flooding to occur and for flood risk to increase elsewhere. They also note that as all surface water will need to infiltrate to the ground, an investigation as to whether this is feasible should be undertaken. They highlight the adjacent landfill site and the need to factor this into drainage designs. They also request details of volumes of attenuation storage and soakaways. In response to additional drainage information, they accept the assumptions and recommendations provided to carry out the detailed design work. They accept the location of the attenuation pond as long as there is sufficient capacity. They recommend conditions to establish the details of discharge zones and locations, given the sensitivities of the groundwater in the area and conditions to secure details of the drainage scheme for the site, including a maintenance and management plan.
- 7.16 The NHS have requested contributions towards primary care infrastructure for either Newton Place Surgery or Faversham Medical Practice. The total contribution is calculated as £225,000.
- 7.17 KCC Development Contributions Team request contributions towards primary and secondary education, community learning, libraries, youth services and adult social care. The total contribution sought, based on the provision of 250 dwellings was initially £2,242,201.69. They also ask for 2 wheelchair adaptable homes delivered as part of the on-site affordable housing and recommend an informative to encourage the provision of high speed fibre optic Broadband. However, the applicant challenged the contribution sought for primary school places (namely £6,000 per applicable house and £1500 per applicable flat, or a maximum of £1,500,000 if 250 applicable dwellings were to be built) and the County Council conceded that a contribution for primary school places was not required, stating among other things:

“...previous assessments based upon earlier birth and migration information in Faversham had indicated a deficit for Primary places in Faversham when adding in previous developments within the Town. Updated Education information and forecasts for Faversham, now going beyond the 2021 horizon previously, using latest data from the Health Authority (including pre school children born up to 31 August 2016) identify going forward rolls in 2022 will be slightly lower than previous 2021 rolls, hence a small surplus arising by 2021-2022 of now 89 places.

As this development is forecast to generate 70 Primary places, there will therefore now be sufficient places to accommodate this development in Primary schools locally.”

In the light of the increased contribution for secondary education (amounting to £1,028,750 assuming 250 houses) and given that a primary school contribution is no longer being sought, the total amount requested is £1,770,951.60.

- 7.18 The Kent Downs AONB Unit note that the development has the potential to impact on the setting of the AONB but also notes that careful planting and control of storey height would provide adequate mitigation for potential impacts. They are concerned that woodland planting along the southern boundary is not shown to be provided on the plans and that the southern parcel of land is outside of the application site making it more difficult to control mitigation measures.

- 7.19 KCC Archaeology note that the submitted Desk Based Assessment underplays the potential for archaeological finds within the site. Fieldwork in the area around Faversham that the road has been an attractive location for settlement and burial activity from Roman and Saxon times. The prehistoric potential of the area is also pretty much evident from the fieldwork and other discoveries that have taken place on the lands around this corridor. Recent evaluation on the proposed development at Perry Court has revealed an extensive Romano-British landscape with some elements of prehistoric focus. Fieldwork in the fields to the east of Salters Lane have revealed Iron Age remains including kilns, while the HER records Palaeolithic hand axes having been found close by to the site but south of the motorway. The archaeology of the site can be addressed through a condition on the planning consent that secures evaluation in the form of geophysical survey and subsequent mitigation through excavation and/or preservation of significant archaeology that may warrant such an approach.
- 7.20 Kent County Council (KCC) Highways and Transportation acknowledge that the application site does form one of the allocated sites within the emerging Swale Borough Local Plan, and is therefore being promoted by the Local Planning Authority with support from Kent County Council, as appropriate for delivering a proportion of the Borough's housing needs over the Local Plan period. As with any highway works affecting the public highway, it is expected that the proposed designs should be accompanied by a Stage 1 Road Safety Audit at the submission of a planning application. Additionally, the Highway Authority would also require a list of any departures from standards associated with the design of these junctions, in order that they may fully consider the acceptability of any of these prior to detailed design. The adequacy and accuracy of the drawings, proposed junctions and visibility splays was questioned. KCC Highways and Transportation also question the traffic count data in respect of the time of year being atypical of normal traffic conditions and they stress that this development cannot rely on the Perry Court highway improvement to come forward. They suggest that the developer should engage with local bus operators to explore what enhancements could be made to the bus services in the area to encourage the use of public transport. This could include measures such as increased frequency, route changes, bus stop improvements and additional bus stop provision. In addition, the subsidised bus travel for new residents could be promoted, as has been agreed with the nearby Perry Court development. Opportunities should be investigated for connecting the development more suitably to the local area, and keeping cyclists off-carriageway for the maximum distance possible. A more pedestrian appropriate form of crossing for the A2 is required. It will also be expected that the footway proposed along the A2 should extend further to link up with the existing provision at the junction of the A251 and beyond to Abbey School. This development should also consider linkage opportunities to the committed development at Perry Court, so that it can take advantage of routes being provided within that development that connect to the wider network.

Having reviewed the submitted Safety Audit for the two accesses, they are content with the reports. However, they seek a 3.5m wide right turn lane and 3.4m wide through lanes for the A251 access. They are also content with the additional information in respect of traffic flows and they are satisfied that the internal road layout of the proposed development can be "tortuous" enough, combined with the proposed improvements to the A251/A2 junction, to avoid any noticeable volume of rat-running between the two proposed accesses. They are therefore satisfied that the traffic distribution through these two junctions is appropriate. The applicant has now acknowledged the impact of their development on the A251/A2 junction, and the responsibility they have to contribute towards the proposed improvement scheme

planned for this junction to support the Local Plan growth. Using the proportional impact levy used on other developments identified to provide funding for the improvements, the figure of £87,900 will be the amount required from this proposed development site. They are satisfied with the approach to public transport initiatives and also accept the location of the pedestrian crossing and footpath arrangements along the A2. The visibility splays shown for both accesses are accepted. Specialist kerbing or waiting restrictions should be provided along the A2 frontage of the site to prevent parking along this stretch of road. This can be achieved via a Section 278 agreement.

In response to the latest set out drawings/information, KCC Highways and Transportation accept the road widening to enable the ghost right-turn junction on the A251, they accept that there is no requirement for a new bus stop to be provided on the A251, they recommend that the existing bus stop on the A2 retains its position (which will act as a traffic calming measure) but ask that a bus shelter and paving is provided, they re-assert their desire for a footpath along the southern side of the A2 from the site access to Abbey School, they discourage the tactile paving close to the Ambulance Station and ask for further clarification on the sustainable transport contribution and discounted/free bus travel for residents of the development. They suggest a number of conditions in respect of highway matters, which are included below.

KCC Highways and Transportation have provided further comments in response to the Technical Note (January 2018). In summary, no objection is raised provided that an amended plan is received showing the footway leading from the site access to the bus stop to be widened to two metres. The memo also sets out the requirements of KCC in respect of the required pavement along the southern side of the A2 between the site access and the vehicular entrance to Abbey School. The applicant has agreed to provide this, and the mechanisms for its delivery are dealt with elsewhere in this report.

- 7.21 The KCC Planning Applications Team submit a holding objection in respect of the Minerals Assessment which they wish to seek legal advice on.
- 7.22 The Greenspaces Manager notes that the proposal generally provides an adequate amount of open/green space facilities. The linear greenspace and indicative location of play facilities provides appropriate natural surveillance over both. While the play area can provide traditional play, given the wider landscape there is also an opportunity to include more imaginative natural play elements. It is envisaged that the facility will be provided as a minimum to a LEAP (Local Equipped Area of Play) standard. The latest draft of the new Open Spaces Strategy encourages developers to find an alternative (transfer open space to a management company) for future maintenance of open space rather than the Council taking ownership and responsivity.
- 7.23 He seeks contributions towards off-site facilities for allotments and formal sports. Allotment contribution for Faversham Town Council toward bringing St. Nicholas Road Allotment site back into use, and Formal Sports Contribution toward enhancing capacity and facilities within the town. Allotment - £40.00 per dwelling, Formal Sport - £593.00 per dwelling.
- 7.24 The Economy and Community Services Manager raises no objection. As set out below, the Section 106 Agreement will need to include clauses in respect of the use of local labour, apprenticeship provision and the use of local suppliers.

8.0 BACKGROUND PAPERS AND PLANS

Site location plan; Illustrative Masterplan; Framework Plan; Transport Assessment; Surface Water Assessment; Planning Statement; Statement of Community Involvement; Economic Impact Assessment; Draft Section 106 Agreement; Residential Travel Plan; Noise Assessment; Landscape and Visual Appraisal; Land Quality Assessment; Design and Access Statement; Arboricultural Report; Heritage Assessment; Flood Risk Assessment; Air Quality Assessment; Air Quality Mitigation; Noise Report Addendum; Additional Drainage Works; Transport Assessment reports/correspondence to address comments from HE and KCC Highways and Transportation; Non-Motorised Audit Report; Road Safety Audit Report; Technical Note – Summary of Post Consultation Submission (transport / highway issues); and Minerals Assessment.

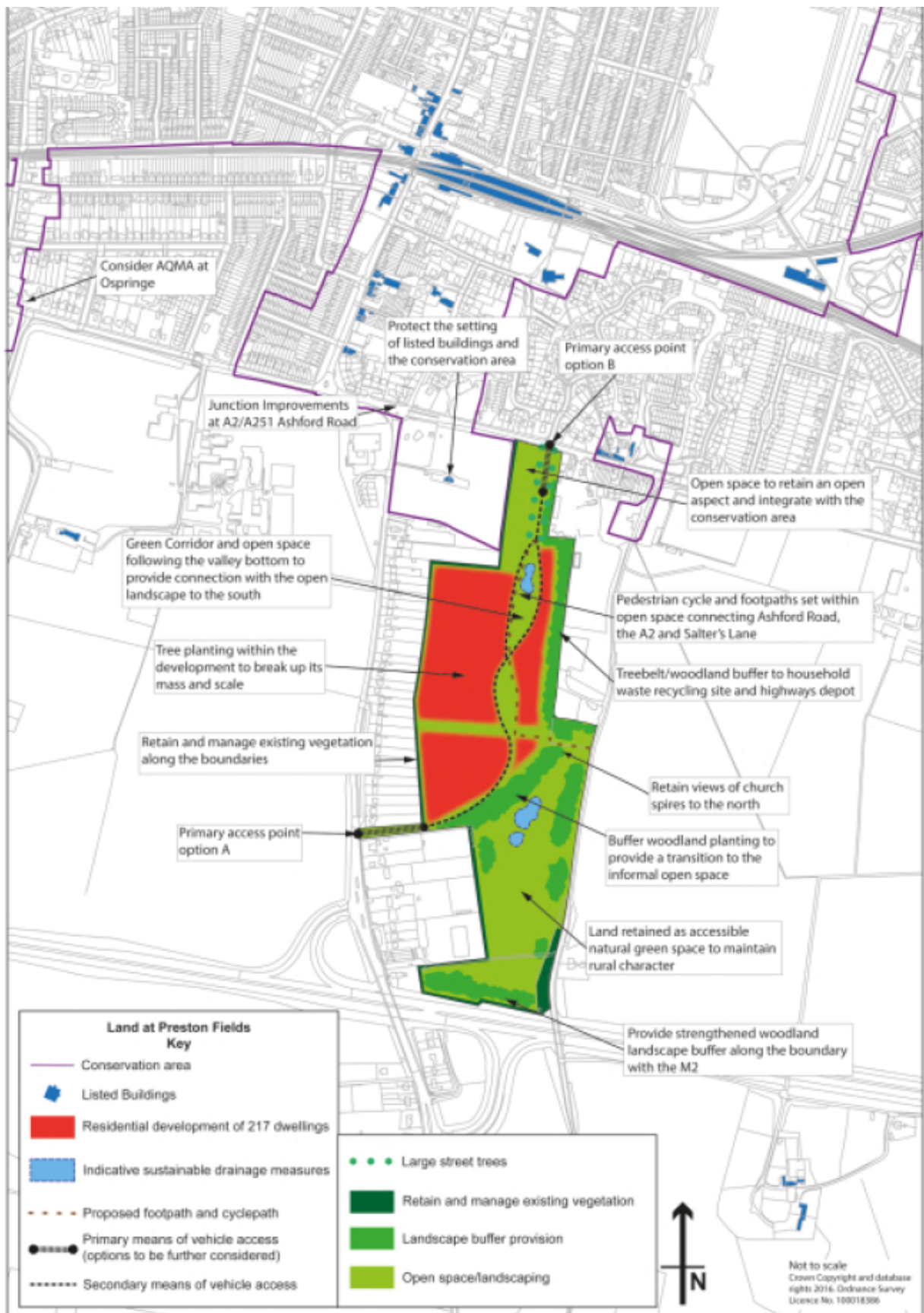
9.0 APPRAISAL

Principle of Development

- 9.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.02 The application site lies within land that has been allocated for housing under Policy A16 (which is set out in full in section 4 above) of the adopted Local Plan - Bearing Fruits 2031: Swale Borough Local Plan 2017. The principle of housing development on this land has therefore been clearly established.
- 9.03 Members should consider the emerging Local Plan as a material planning consideration. The Local Plan Inspector's Report for the current adopted Local Plan, dated 20 June 2017, said as follows:
- "In the light of the consultation responses and discussions and taking account of evidence regarding highway infrastructure that emerged during the resumed hearings, it has become clear that in order to be capable of adoption the Plan should be subject to an early review. I have therefore amended the Council's proposed modification to Policy ST2 (MM42) to include a commitment to an early review."*
- 9.04 Policy ST2 now commits the Council to undertaking a review of the Local Plan, which is to be programmed for adoption by April 2022. The work necessary to inform and underpin this early review of the Local Plan has already commenced with the Local Planning Authority initiating a 'Call for Sites' on 4 August 2017 as well as work on transport modelling. The Preston Fields site will not be affected by this review other than in an overarching sense that work is underway in addressing the housing and infrastructure needs of the Borough as a whole.
- 9.05 In accordance with the above legislation, I cannot identify any material planning considerations that would indicate that this application should not be approved in line with the Development Plan. The following discussion will deal with the relevant planning considerations in turn, identifying any potential harm and suggesting appropriate mitigation measures where necessary.

Visual/Landscape Impact

- 9.06 At a National Level, the site lies within the North Kent Plain (National Character Assessment) and is within the 'Eastern Fruit Belt' as identified by the Kent Landscape Character Assessment (2004). On a local level, the site is identified as being within the Faversham and Osgringe Fruit Belt by the Swale Landscape Character and Biodiversity Appraisal (2011). Key characteristics of this landscape type that are relevant to the application site are:
- *Gently undulating landscape that steadily climbs southwards;*
 - *Mixed geology of head brickearth, Thanet beds drift, clay-with-flints and chalk;*
 - *Small to medium-scale orchards and large open arable fields;*
 - *mature fragmented hedgerows supplemented with post and wire fencing;*
 - *Motorways, A and B roads, narrow winding lanes.*
- 9.07 The guidelines for the Faversham and Osgringe Fruit Belt encourage the conservation and reinforcement of the landscape and built form and go on to recommend particular types of trees and shrubs as well as finishing materials for buildings.
- 9.08 The application site does not hold a landscape designation but the supporting text to Policy A16 (housing allocation) notes that the site makes a positive contribution to the heritage setting of the town and its rural setting and views. The supporting text also notes that it has a moderate sensitivity to change and that development should be confined to the central area of the site with open space retained to the north and south. The Development Concepts plan contained within the supporting text to policy A16 (see below) shows a large area to the south being retained as accessible natural green space with a woodland buffer to the southern boundary, to the centre of the site and along the eastern boundary. A green corridor is also shown along the centre of the site and an area of open space provided to the north of the site to retain an open aspect from the A2 and to integrate with the Conservation Area.



9.09 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by “*Protecting and enhancing valued landscapes, geological conservation interests and soils*”. Policy DM24 of the adopted Local Plan states that ‘*The value, character and tranquillity of the Borough’s landscapes will be protected, enhanced and, where appropriate, managed.*’ For non-designated landscapes (Preston Fields) Policy DM24 states that they will be protected and enhanced and planning permission will be granted subject to ‘*the minimisation and mitigation of adverse landscape impacts...*’. The Policy refers to the Swale Urban Extension Landscape Capacity Study (2010) which considers the landscape impact of extensions to Faversham and other urban areas in the Borough. The Landscape Capacity Study found that the valley side west of Salters Lane (incorporating the site) was particularly well contained and that the expansion of residential development and some small scale commercial development could potentially be accommodated in areas which are well contained, both physically and visually. The recommendation with regard to the valley side between the A251 and Salters Lane is noted as a potential development location. The study recommends the following:

- *Respect the setting of Listed Buildings and Conservation Areas in any new development proposals;*
- *Conserve the rural approach to Faversham, and the compact nature of the urban extent;*
- *Conserve existing vegetation east of housing along the A251 and reinforce to form a stronger vegetation belt;*
- *Increase planting around the household waste recycling centre to help screen/soften it in views from the west;*
- *Create hedgerow along Salters Lane to help contain any further development;*
- *Conserve and strengthen existing vegetation belts along the railway line to the north and along the A2 and M2; and*
- *Utilise existing shelter belts to help provide a landscape framework for, and screening of, any further development.*

The submitted Landscape and Visual Appraisal refers to this study and draws on its findings.

9.10 The submitted Landscape and Visual Appraisal considers the landscape character of the application site and its surrounding context. It also considers its sensitivity to change and the likely impact of the proposal on the quality and character of the landscape from key ‘receptors’ – i.e. view points. Careful consideration is given to the adjacent Conservation Areas – Faverhsam and Preston-Next-Faversham. It goes on to make recommendations about the position of the buildings and key landscape features in order that the impact on the landscape is minimised and any harm is mitigated. In summary, the appraisal concludes that the landscape and scenic quality of the site is ‘ordinary’ and that the value of the landscape for the application site is considered low and of local importance. It concludes that the site has a medium susceptibility to change being a ‘settlement fringe landscape’ and being contained by existing built form to the east and west boundaries. Views of the site (from public areas) are mostly afforded from the east along Salters Lane and the south at overbridges at the M2 with glimpsed views from footpaths (ZF21 and ZF25) to the east and views of the site from the Ashford Road properties are limited by the length of the rear gardens of these properties and existing and proposed soft landscaping.

- 9.11 The submitted Illustrative Masterplan and Framework Plan has been guided by the conclusions of the Landscape and Visual Appraisal. Buildings are shown to be contained within the middle of the site with open space to the south and north and structural/buffer planting to the southern and eastern boundaries. Dwellings would be set away from the eastern boundary of the site where it abuts Salters Lane (a Rural Lane – Policy DM26) with a ‘light’ screen of trees here, helping to maintain the open aspect of the road at this point. Lower density housing is suggested in the Landscape and Visual Appraisal at the southern end of the site but this would be for the reserved matters application to deal with. The ‘structural planting’ would be in the form of native species and a mix of shrub, hedgerow and tree planting. The submitted Landscape and Visual Appraisal concludes that:

‘A successful detailed design response would complement the adjoining townscape to the west and north to implement a residential development appropriate to the urban fringe location. The proposals will also create a transition edge to the settlement, screened by established buffer planting and informal open space across the south eastern reaches of the development.’

Overall, the LVA concludes:

‘...a suitably scaled and designed residential development would cause localised landscape and visual effects, but can deliver a number of landscape and visual benefits.’

- 9.12 The proposal in respect of the areas of planting and position of buildings is largely consistent with the Development Concepts plan (see above) contained within the adopted Local Plan for this allocation. The main difference is the indication on the proposed plans that dwellings would be located adjacent to the Conservation Area to the east. The impact of the development, and specifically the location of dwellings along this boundary, upon the Conservation Area and listed buildings, will be discussed below.
- 9.13 The land to the south of the site is outside of the red line/application site. The application details confirm that this is intended to be accessible open green space and structural planting is shown along the eastern boundary. Exact details of how this land will be landscaped and managed have not been provided under this application. However, the land is within the applicant’s control and so I am confident that we will be able to secure these details via a Section 106 agreement or condition. We can ensure that appropriate planting is provided to the southern boundary of this land, adjacent to the M2 in accordance with the Development Concept plan (above) and we can ensure that details of how the land will be managed are provided. Subject to securing this long-term management and planting to the southern land, I am satisfied that from a landscape impact point of view, the development would cause no significant harm and that appropriate mitigation measures in the form of structural planting can be achieved at this site. Any impact on the AONB would be limited given the significant distance between the application site and the AONB to the south, the intervening M2 and the proposed structural planting which will screen the development from a number of vantage points.

Agricultural Land

- 9.14 The application is not accompanied by an Agricultural Land Classification Report but I am aware that the land is identified as grade 1 and 3a by the post 1988 Agricultural Land Classification data. It is therefore classed as ‘best and most versatile’ for the purposes of planning policy. Although Members will note Policy DM 31 of the

adopted Local Plan, which relates to agricultural land, and Paragraph 112 of the NPPF, in this case I consider that the overriding argument in respect of the loss of best and most versatile agricultural land is that the need for housing outweighs the need for agricultural land and the fact that this site is included as a housing allocation in the adopted Local Plan.

Heritage Impact

- 9.15 The Planning (Listed Building and Conservation Areas) Act 1990 at section 66(1) states:
- “In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authorityshall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.*
- 9.16 In respect of Conservation Areas, Section 72 gives local authorities a general duty to pay special attention ‘to the desirability of preserving or enhancing the character or appearance of that area’ in exercising their planning functions. The Act does not make specific provision with regard to the setting of a Conservation Area, this is addressed within the adopted Local Plan Policy DM33 and under section 12 of the NPPF.
- 9.17 The key heritage assets in respect of this site and upon which the development might have an impact are as follows:
- Non-designated heritage assets – potential archaeological finds (Roman, Saxon, Prehistoric);
 - Designated heritage assets – Faversham Conservation Area, Preston-Next-Faversham Conservation Area,
 - Designated heritage assets - Listed buildings: - Orchard Cottages, Gazebo, Former Cherry Tree Public House, Cherry Tree Cottages, Outhouse attached to the right of No. 3 Cherry Tree Cottages, The Windmill Public House and Thatched Cottages.
- 9.18 The significance of each heritage asset must be considered as part of the planning process. Significance is defined in the NPPF as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.
- 9.19 Policy DM34 of the adopted Local Plan states that there is preference to preserve important archaeological sites in-situ and to protect their setting. Development that does not achieve acceptable mitigation of adverse archaeological effects will not be permitted. KCC Archaeology note that the submitted Desk Based Assessment underplays the potential for archaeological finds within the site. However, they are content that the archaeology of the site can be addressed through a condition on the planning consent that secures evaluation in the form of geophysical survey and subsequent mitigation through excavation and/or preservation of significant archaeology that may warrant such an approach. I have recommended such a condition. I therefore consider that the development would comply with Policy DM34 in securing appropriate mitigation for archaeological findings at this site.

- 9.20 Policy DM32 of the adopted Local Plan states that development affecting the setting of a listed building will be permitted provided that the building's special architectural or historic interest and its setting are preserved. Most of the listed buildings close to the site and noted above are located on the opposite (northern) side of the A2 to the application site. The submitted Heritage Assessment argues that *'views to and from the majority of these buildings in the direction of the development are blocked by modern development'*. The impact on the setting of these listed buildings will be minimal in my view. The closest listed building to the site is Orchard Cottage. This is an early 19th century two storey building with weatherboarding and slates to the roof. The building is surrounded by gardens which comprise the majority of its setting with the application site also falling within the wider setting. The submitted Heritage Statement notes:

'Some additional tree planting may be required along the north-western perimeter of the site to block views to and from the Listed Building [Orchard Cottage]. This would ensure that its setting and significance is not impacted upon by the development proposals.'

I am in agreement with this statement and conclude that the development would preserve the setting of the listed building and/or would have no direct impact on the setting of the listed buildings further away and on the other side of the A2.

- 9.21 In terms of Conservation Areas, the closest to the application site is the Faversham Conservation Area. The relevant Conservation Area Appraisal states:

"The London Road itself has for some long time been seen to mark the southern edge of Faversham where the town ends and the countryside begins. In practice, this sharp divide is no longer as well defined as it once was, but on the southern side of London Road close to the junction with Ashford Road two early C19 brick and weather-boarded cottages are still to be found set deep within a patch of old orchard at the end of an unmade track, so that their peg-tiled roofs are viewed across the tops of old fruit trees. Just here, therefore, is a fragment of 'rural Kent' positioned right alongside the southern edge of the town. Despite the rather lacklustre appearance of the orchard (a collection of rather randomly spaced trees of varying sizes, varieties and vigour) the traditional Kentish character of the houses, the orchard setting, and the position on the very edge of Faversham town are in combination such that this remains a rather special place." (paragraph 11.2)

- 9.22 The submitted Heritage Assessment notes that:

"Sensitive landscaping and design would be required, along with a set-back of development in this area, in order to ensure that the setting and significance of the Conservation Area is not impacted upon by development of the site."

- 9.23 This proposed landscape arrangement is also supported by the submitted Landscape and Visual Appraisal. Members will have noted in the discussion on landscape impact above that the Illustrative Masterplan shows buildings further forward within the site and closer to the A2 than the 'Development Concepts' plan (see above) indicates. It is not clear from the submitted Heritage Assessment as to the extent of the setback suggested. However, assuming that the setback was to completely avoid dwellings abutting the adjoining Faversham Conservation Area (as shown on the Development Concepts plan), further consideration must be given to the impact of dwellings along this boundary.

9.24 As noted above, this part of Faversham Conservation Area is characterised by the orchard setting of the traditional listed Kentish cottages. Of key importance therefore is the preservation of this character. The Illustrative Masterplan shows buildings being set back from the A2 by approximately 70 metres and approximately half-way along the boundary with the Conservation Area. Whilst the details of the development will be considered at the reserved matters stage, given the indication of the extent of housing on the Illustrative Masterplan, it is prudent to consider how the development might be designed to ensure that the setting of the Conservation Area is preserved. As the submitted Heritage Assessment suggests, landscaping and design will be of key importance as well as building height and for that matter the relative ground levels between the sites. It is of note that the part of the application site adjacent to the Conservation Area currently sits at a lower level than the Conservation Area by approximately 1.5m, possibly more. I have recommended a condition to ensure that there is a maximum building height of 8.5m – the height of an average 2 storey dwelling. This is not only for the purposes of limiting the impact on the Conservation Area but also the impact on the landscape. Ground levels would also be controlled by condition with further details sought at the detailed stage. I would also suggest that any dwellings adjacent to the Conservation Area are of low density and of a design that reflect the Kentish rural cottage character of Orchard Cottages but this can be considered in more detail at the reserved matters stage. The critical issue at the outline stage is the need for a robust soft landscaping screen and limiting the height of the properties in my view. In addition to these measures, a key consideration in this case is the potential future development of the Orchard Cottage site. Members may be aware of a current planning application 17/502521/FULL for the retention of the listed cottages and erection of 9 new dwellings which would be sensitively arranged and designed to preserve the setting of the listed building and the character and appearance of the Conservation Area. Whilst this application is undecided, Officers have given a clear indication that the principle of new housing within the Conservation Area would be acceptable. To prevent housing within the Preston Fields application site, adjacent to the boundary of the Conservation Area, would seem to be unreasonable and unnecessary given the potential development on the adjacent site and the measures that can be put in place (as noted above) to limit the impact. I am therefore of the view that the proposed development would preserve the character and appearance of the Faversham Conservation Area.

9.25 Preston Next Faversham is the next closest Conservation Area - 48 metres to the west of the site where it adjoins the A2. This was a small hamlet on the Canterbury Road that used to be separated from Faversham. However, it has been absorbed into the built form and urban fabric of Faversham as the town has extended along the A2 corridor. The conservation area appraisal summarises that:

“The cluster of buildings on the northern side of Canterbury Road, together with Mill House and Cottage on the south side of the road, is therefore the important historic record of earlier times in Preston Next Faversham when it was a small, free standing settlement. The surviving vernacular architecture continues to be of sufficient strength to constitute a place of both special historic interest and local distinctiveness.” (paragraph 12)

9.26 Given the proposed set-back, by 70 metres, of the buildings from the A2 as shown on the Illustrative Masterplan and the presence of intervening buildings of varying age and architecture, I consider that the impact of the proposed development on the setting of this Conservation Area would be very limited. I therefore consider that the

development would preserve the setting of the Preston-Next-Faversham Conservation Area.

Residential Amenity

- 9.27 The proposed development would have a limited impact on local residents in terms of potential for overlooking, overshadowing or overbearing. The properties most likely to be affected by the development in this respect are located along Ashford Road and back onto the western boundary of the site. These properties have on average 50m long rear gardens and a large number of them have 6ft high fence panels along the boundary with the application site. The details of the housing layout are not known at this outline stage but I am content that the proposed development would be very unlikely to have any notable harm on the residential amenities of the existing properties.
- 9.28 Disturbance during construction will no doubt be an inconvenience to some local residents. However, such disturbance is a necessary result of the need to build more houses and it must be acknowledged that it will only be for a temporary period. I have recommended a condition to limit the impact of construction activities at the site and consider that this will be adequate. In terms of anti-social behaviour from local residents walking to the town centre, there is no reason to believe that residents of the Preston Fields development would display anti-social behaviour and I do not consider this to be a planning concern.
- 9.29 As noted above, the details of the housing layout are not known at this stage but I am content that the number of dwellings proposed within the site area available would not result in an overcrowded scheme, noting the density of approximately 35 dwellings per hectare. The reserved matters application will consider issues of overlooking between new properties, adequacy of garden size and dwelling size. Open space is shown to be provided within the development for the benefit of its future residents as well as existing residents of the wider area. The supporting text to policy AX16 requires an area of open space of 3.2 hectares. The proposal would provide 3.15ha of open space plus an area of 3.52 ha to the south to be kept as accessible open space. I have recommended a condition to secure the on-site open space and a clause within the Section 106 to secure the off-site open space. At this outline stage, I cannot identify any barriers to achieving a good quality living environment for its future residents.
- 9.30 The application site lies adjacent to some noisy sites/uses – Faversham Laundry, KCC Highways Depot, Faversham Recycling Centre, the A2, A251 and M2. In response to this, the applicant has submitted a Noise Assessment. This sets out details of a Noise Survey that was undertaken to establish the baseline conditions within the around the site. A scrap metal yard is noted to the south of the recycling facility but due to inactivity, this did not generate a noise disturbance. Details of the operational activities of the Faversham Laundry, KCC Depot and the Waste Recycling Facility were all noted:
- Faversham Laundry – operates between 0800-2230 weekdays and 0800-1630 at weekends. Noise generated from mainly HGVs but some from the operations within the building itself;
 - KCC Depot – no time restrictions operation but it was clear that the majority of the operations take place during the day with only 2-3 HGV movements at night. Noise generated from HGV movements;

- Waste Recycling Facility – operate 0800-1630 Monday – Saturday and 0900-1600 on Bank Holidays and Sundays. Noise generated from machines, compressors, scrap metal handling, loading and unloading skips etc.
- 9.31 The calculated noise levels from the surrounding noise generating uses ranged from 50.5 dB – 72.9 dB during the day and between 48 dB – 69.2 dB during the night with the noisiest areas being on southern boundary of the ‘blue edged land’ and the eastern boundary adjacent to the recycling centre. The World Health Organisation (WHO) recommended maximum external noise level is 55dB and maximum internal noise level is 35 dB for bedrooms and living rooms. It is therefore clear that the properties that are to be sited close to the boundaries of the site will need to have appropriate noise mitigation. The Noise Assessment suggests that glazing will need to be of a type (‘silence double glazing or similar) that will reduce internal noise levels by up to 39.2 dB. The Assessment also suggest that appropriate ventilation systems are considered from the properties close to the boundaries as this will enable windows to remain closed (giving optimum noise mitigation) whilst providing adequate ventilation to rooms. The Noise Assessment notes:
- “The detailed design of the proposed properties will affect both the required sound reduction performance and the appropriate selection of glazing units. The aspects of the detailed design that are important are the room dimensions, room finishes, window dimensions and the sound reduction performance of non-glazing elements. Further detailed consideration of the glazing components will be required by the eventual developer of the site once the detailed design is confirmed.”*
- 9.32 I have therefore recommended a suitably worded condition (see condition (31) below) to ensure that a further noise assessment is carried out based on the housing layout and building design to be considered under the reserved matters application. The reserved matters application will need to carefully consider which of the properties requires special double glazing and ventilation systems to ensure that the internal noise environment is acceptable.
- 9.33 In terms of further mitigation, the Noise Assessment recommends that the dwellings should be a minimum of 57m from the A2 and M2. In this case, the Illustrative Masterplan shows that the houses would be at least 70 metres from the A2 to the north. It should be noted that the highest noise readings were from the southern boundary of the ‘blue edged land’, adjacent to the M2. No housing is proposed in this area. In fact, the houses would be a minimum of 235 metres from the M2 and would therefore be consistent with the recommendations of the Noise Assessment. The original Noise Assessment considered the need for a 4m high bund along the M2 boundary. However, an addendum to the Noise Assessment has been submitted which considers the noise impact of the M2 at 235 metres to the north and where the nearest housing is proposed. This demonstrates that the noise levels reduce significantly to a maximum of 56.7 dB, only just above the recommended 55 dB, even without the 4m high bund. The bund is therefore no longer proposed.
- 9.34 For external noise, the Noise Assessment acknowledges that the noise levels might exceed 55 dB in some rear gardens and recommends that two-metre-high boundary fences are provided along the boundaries as well as setting the gardens away from noise sources. Again, this detail will need to be finalised at the reserved matters stage. The Assessment notes that the WHO guidelines acknowledged that 55dB will be exceeded in cases where development is in urban areas or close to strategic transport networks and that a compromise between elevated noise levels and other factors such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. The

potential exceedance of the 55dB for rear gardens is accepted by the Environmental Protection Team Leader and I am of the view that the development of this site, to meet the housing needs of the Borough in a sustainable way, will mean that the exceedance of 55dB is an acceptable compromise in this case. Moreover, the submitted Noise Assessment is based on an assessment of the whole area of the site allocation. I am positive that the reserved matters detail will show housing set back from the A2, and planting (the Ecological Assessment refers to 5m wide planting along this boundary) and solid boundary treatment to the western and eastern boundaries therefore resulting in an acceptable external living environment.

- 9.35 Overall, I consider that the development will have no undue impact on the residential amenities of existing properties that lie close to the site and that the development would provide an acceptable living environment for its future residents.

Highways

- 9.36 The application is accompanied by a Transport Assessment (TA) which examines the existing conditions of the local highway network, committed developments, road safety record and accessibility. It then considers the traffic generation from the proposed development, assesses the off-site highway impact and details site access arrangements. Finally it discusses opportunities for residents of the new development to travel by sustainable modes.
- 9.37 It is fair to say that as originally submitted, the TA was not accepted by either Highways England or KCC Highways and Transportation in terms of the data presented, its assumptions and its suggested off-site highways mitigation measures and site access details. After extensive negotiations and the submission of additional and amended information (Members will have noted the Technical Note, dated January 2018), including safety audits, Highways England and KCC Highways and Transportation have accepted that there would be no harm to the highway network that cannot be adequately mitigated. This is subject to a number of conditions and contributions towards highway improvements.
- 9.38 In terms of the impact of the development on the local highway network, the main consultees have accepted (as noted above) that the development would not generate traffic that would be at a level that cannot be absorbed, subject to some off-site highway improvements. In terms of sustainable travel, the development has the potential to provide safe cycle routes within the site (to be secured at the detailed stage) and on and off-site pedestrian footpaths are proposed to be provided/improved with links to Abbey School, the town centre and the Perry Court development as well as a potential footpath connection to the Orchard Cottage site which would link with the new development there, should planning permission be granted. The bus stop on the A2 would also be retained and improved. I provide a summary of the main off-site highway works/contributions below:
- Pedestrian crossing to the A2 – tactile paving and central pedestrian refuge provided close to the junction with the A251;
 - Pedestrian footpath on the southern side of the A2 from the site access to the junction with the A251 and beyond to the entrance to the Abbey School;
 - Improvements to the existing bus stop on the A2, close to the new site access with a reconstructed footway provided from the access to the bus stop;
 - Discounted/free bus travel for future residents (consisting of a 7-Day Swale Megarider Ticket for six months at a cost of £364 per dwelling)

- £87,000 towards an improvement scheme of the A251/A2 junction to be delivered by KCC
 - M2 junction 7 improvement - £53,200.
- 9.39 In terms of the site accesses, the developer is proposing a ghost right-turn junction (with some road widening) to access the site from the A251 and a standard priority junction to access the site from the A2. The visibility splays and safety of these accesses has been accepted by KCC Highways and Transportation. With regard to the A251 access, the applicant has confirmed that the northern visibility splay crosses land that Kent County Council have confirmed makes up part of the public highway, and at no point conflicts with third party land to the east.
- 9.40 I therefore consider that, subject to appropriate mitigation as noted above and the suggested conditions dealing with highway matters, the development would have no harmful impact on the local or strategic highway network and would support sustainable modes of transport.

Ecology/Biodiversity

- 9.41 Natural England do not object to the application noting that there would be no significant impact on the SPA subject to contribution towards the Thames, Medway and Swale Estuaries Strategic Management and Monitoring (SAMM) Strategy. Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.* For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) require the Council to make an appropriate assessment of the implications for the site. An Appropriate assessment is appended.
- 9.42 The application is accompanied by an Ecological Assessment, which considers the existing site conditions and the nature conservation value, details the results of site surveys for amphibians, reptiles, badgers, and bats, identifies potential impacts on ecological features and suggests mitigation measures to minimise the negative impacts. It also suggests enhancement measures that could be put in place at the site.
- 9.43 The results of the surveys are as follows:
- No evidence of badgers was found at the site.
 - There were no trees or buildings found within the application site that have the potential to support roosting bats but parts of the site were suitable for foraging and commuting and the bat survey recorded two species on site.
 - There are no habitats within the proposed development site which are considered suitable for Schedule 1 bird species and the proposed development site is not expected to be 'functionally linked' to the Swale SPA/Ramsar site.
 - There was no evidence of dormice or Great Crested Newts.
 - No reptiles were recorded during the reptile presence / absence surveys and therefore it is anticipated that there are no reptiles present within the survey area and the proposed area of works.
 - Young Japanese knotweed plants were noted within the southern area of the proposed development site. The affected area is approximately 10 square metres. Mitigation measures to treat this species will be required if any further works are

planned in this area, particularly as it is offence to plant or cause Japanese knotweed to spread in the wild under the Wildlife & Countryside Act 1981.

- 9.44 In terms of mitigation measures, any site clearance to be carried out within the nesting season will need to be preceded by surveys to check for the presence of nests. Impacts on bats as a result of the works are likely to be restricted to disturbance / displacement of commuting and foraging bats as a result of general site presence, noise, and lighting. Lighting should be carefully controlled therefore. An Invasive Species Management Plan (ISMP) will need to be agreed with the Environment Agency prior to the commencement of any on-site works in respect of the Japanese knotweed. In addition to these specifically targeted mitigation measures, the Ecological Assessment refers to ‘embedded mitigation’ which is in the form of the green infrastructure within the development. The Ecological Assessment notes:

“The concept masterplan for the proposed development will be designed in such that the most valuable ecological resources will be retained within the interconnected network of green infrastructure that also retains the existing corridors for wildlife movement within the proposed development site and beyond.

Part of the proposed development includes the development and implementation of landscape mitigation measures which include planting of native tree and shrub species along the eastern site boundary, creating green infrastructure areas to the north and south of the site as well as green corridor running through the middle of the Site. The area south of the access track is to remain green.”

- 9.45 KCC Ecology accept the findings of the Ecological Assessment and recommend conditions to secure appropriate mitigation and ecological enhancements within the site. Subject to these conditions, I consider that the development would cause no harm to ecology/biodiversity.
- 9.46 An Arboricultural Report has been submitted in support of the application. This identifies 112 trees within, or partly within, the application site and the ‘blue edged land’ to the south. The trees are located mainly on the site boundaries and a large proportion of which are within third party land. One tree was considered to be high quality (category 1) – Beech, four were in very poor condition and the remaining trees were either low or moderate quality. The high quality Beech tree is located outside the application site and within the rear garden of one of the Ashford Road properties. Generally, we would seek to retain as many of the trees as possible. Where they fall outside of the application site, measures should be taken to ensure that they are protected from harm during construction. I have recommended a suitably worded condition to ensure that protection is provided and that any trees within the site that are of good quality are retained.

Minerals

- 9.47 The application site lies within a Minerals Safeguarding Area for Brickearth designated through Policy CSM5 of the Kent Minerals and Waste Local Plan (KMWLP) (2016). The applicant has submitted a Minerals Assessment in accordance with the requirements of the supporting text to Policy AX16 (the allocation), which states that the quality and quantity of the mineral and the practicalities of prior extraction should be investigated via a Minerals Assessment in line with the safeguarding mineral and prior extraction policies contained within the Kent Minerals and Waste Local Plan.

- 9.48 The applicant has approached Weinberger who are the main manufacturer of bricks in Kent. They carried out a site visit and a number of sample tests. They confirmed that the site has previously been subject to extraction but that:

“Initial indications show brick earth to be between 0.6 meters to 1.5 meters from the limited tests we carried out this indicates that there is a significant amount of brick earth on site, as such if the site was to be developed we would have an interest in the brick earth were it to become available, just to give you an early guide if we take the site area and an average of the depth of the brick earth based on the limited investigation it appears there is around 170,000 tonnes on site which could run our site at Sittingbourne for around 4.5 years”.

- 9.49 However, the applicant’s planning agent argues that because of the costs involved in the extraction and the practicalities of removing the brickearth, the site should not be the subject of prior extraction as it would not be viable to do so. Difficulties of prior extraction are suggested in terms of the need to import soil following extraction (and the significant cost of that), the environmental impact on local residents in terms of noise and dust and harm to the local highway network. In addition, they argue that it would result in the delay of the delivery of the houses on site.

- 9.50 In considering the need for prior extraction of brickearth at this site, the applicant and the Council have sought to clarify the application of Policy DM 7 of the Kent Minerals and Waste Local Plan. This policy is worded as follows:

Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that either:

- 1. the mineral is not of economic value or does not exist; or*
- 2. that extraction of the mineral would not be viable or practicable; or*
- 3. the mineral can be extracted satisfactorily, having regard to Policy DM9, prior to the non-minerals development taking place without adversely affecting the viability or deliverability of the non-minerals development; or*
- 4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or*
- 5. material considerations indicate that the need for the development overrides the presumption for mineral safeguarding such that sterilisation of the mineral can be permitted following the exploration of opportunities for prior extraction; or*
- 6. it constitutes development that is exempt from mineral safeguarding policy, namely householder applications, infill development of a minor nature in existing built up areas, advertisement applications, reserved matters applications, minor extensions and changes of use of buildings, minor works, non-material amendments to current planning permissions; or*
- 7. it constitutes development on a site allocated in the adopted development plan.*

- 9.51 KCC have indicated that criterion 7 (indicated in bold) does not apply to allocations within the adopted Swale Borough Local Plan 2017 because the policies were being formulated at the same time as the Kent Minerals and Waste Local Plan and therefore did fully consider the implications of the safeguarding policies. Swale Planning Officers have obtained a legal opinion from Counsel on this stance by KCC, as have the applicant’s planning agent. Both legal opinions make it clear that Policy DM7 of the Kent Minerals and Waste Local Plan must be read and applied at face value and that there is no legal justification for applying the policy in any other way.

- 9.52 KCC have, as set out above, submitted a holding objection to this application on the grounds that they do not agree with this approach and are seeking their own legal

opinion on the matter. KCC's holding objection is a material planning consideration but it does not, and should not in my view, hold up or complicate the issuing of a decision on this application. If the Policy DM7 is applied at face value (as instructed by our legal advice), because the application site is a housing allocation within the adopted Local Plan, it is an exception from the minerals safeguarding requirement and prior extraction is not required. However, our legal advice rightly points out that we must also consider any material planning considerations. In this case, as I set out above, the supporting text to Policy AX16 requires that the quality and quantity of the mineral and the practicalities of prior extraction should be investigated. The applicant's planning agent has done this (to a certain extent).

- 9.53 In light of the fact that the development would be compliant with relevant policies within both the Kent Minerals and Waste Local Plan and the Swale Borough Local Plan, and given the difficulties highlighted in the prior extraction of brickearth from the site and the implications in respect of the delay in the delivery of much needed housing, I am of the view that prior extraction is not required in this case.

Environmental Impacts

- 9.54 The applicant has submitted a Phase 1 Risk Assessment for contaminated land which identifies the sensitivity of the site, being under laid by a Principle Aquifer and within a Groundwater Protection Zone. The report identifies that there is potential for contaminated land at this site and it recommends intrusive investigations to facilitate the collection of soil samples. The Environmental Protection Team Leader and the EA accept the findings of the report and recommended conditions to secure the further investigations as noted and appropriate remediation measures. The EA required extra assurance that the foul drainage would be connected to a foul sewer and that there is capacity for this to happen. The EA were satisfied that the additional drainage information submitted, plus the conditions suggested below, would address their initial concerns.
- 9.55 In terms of drainage, the applicant was asked to submit additional detail in the form of a report demonstrating that both foul and surface waters could be adequately managed within the site. This is not only to address groundwater protection issues and sewage infrastructure capacity but also surface water flooding. The report identifies a culvert that runs beneath the M2 and drains into the site and this additional surface water is taken into account in the suggested drainage solution for the site. The principles of Sustainable Urban Drainage (SUDs) are to be followed. These include: consideration of the groundwater protection zone with 'treatment' of surface water recommended; no use of soakaways for dwellings close to the eastern boundary adjacent to the close landfill site so as to limit the risk of leaching contaminants; attenuation ponds are proposed for the northern and southern ends of the site. In respect of foul drainage, the report confirms:

"The site foul water drainage connection will be connected to the Southern Water sewer network by a new connection obtained through a S98 [of the Water Industry Act 1991] sewer requisition. At detailed design stage an application will be made to Southern Water for a S98 sewer requisition which will identify a point of connection to the existing sewer network, and any requirements for additional infrastructure or upgrading of the existing Southern Water sewer network. It is recommended that a planning condition is attached to the planning permission to ensure that the S98 sewer requisition is undertaken at the detailed design stage of the project."

- 9.56 I have suggested a suitably-worded informative, because it is considered that a condition to ensure that this S98 application is not justified.
- 9.57 With regards to air quality, the site is 1.2km to the east of the Ospringe Air Quality Management Area (AQMA) and a proportion of the traffic travelling to and from the development is likely to pass through it. Any additional traffic generated by the proposed development has the potential to add to air pollution within the AQMA and so this impact must be carefully assessed. The test to be applied is whether the development would result in a significant effect on human health as a consequence of increased air pollution. The key contributors to air pollution are nitrogen dioxide (NO₂) and fine particulates (PM₁₀). The standards and Objectives have been prescribed through the Air Quality (England) Regulations (2000), and the Air Quality (England) (Amendment) Regulations 2002. In respect of NO₂ and PM₁₀s the Objective is 40µg.m⁻³ as an annual mean. If this figure is exceeded, the Objective is not met and this indicates that there could be harm to human health. The applicant has submitted an Air Quality Assessment to consider the impact of the proposed development on air quality within the AQMA and it then goes on to consider the significance of the effect on human health.
- 9.58 The Air Quality Assessment sets out that annual mean NO₂ concentrations were predicted to exceed the relevant air quality Objective at one receptor (21 Ospringe Street) out of twenty-seven. The Assessment shows that the Objective is exceeded at this location (within the AQMA and a street canyon, where elevated pollutant concentrations are anticipated) regardless of whether the development goes ahead or not. Annual mean NO₂ concentrations were below the annual mean air quality Objective at all other receptor locations. Concentrations of PM₁₀ were predicted to be below the respective annual mean Objectives at all receptor locations. The Assessment also considers the impact on future residents of the development in terms of air pollution but concludes that the site is suitable for residential development use with regard to air quality.
- 9.59 The Assessment concludes that development traffic impacts upon local air quality are not significant based upon:
- A negligible impact on all modelled pollutant concentrations was predicted at all receptor locations with the exception of one (21 Ospringe Street) in the Opening Year (2021) scenario. The moderate adverse impact predicted at that 'receptor' in the (2021) Opening Year Scenario equates to only a 0.20µg.m⁻³ increase in NO₂ concentration when rounded to two decimal places. There are exceedances of the air quality objective, both 'without' and 'with' the development in place;
 - The development traffic was not predicted to cause a breach of any of the air quality Objectives at any of the identified sensitive receptor location; and
 - The impact predictions are considered to be conservative, with the assessment taking no account of future improvements to baseline air quality.
- 9.60 The Environmental Protection Team Leader accepts the findings of the report and its conclusions but required the developer to give further consideration to air quality mitigation measures. The developer has agreed to a damage cost of £225,513. This money must be allocated to air quality mitigation measures which would include: use of public transport incentives to promote and encourage the use of public transport facilities, which could include discounted bus ticket prices or free taster tickets for residents of the site; setting up of a walking to school club to promote safe walking journeys to the local schools; and organisation of sustainable transport events, once the development is 75% occupied, to promote the sustainable transport

options available to residents. Given the conclusions of the Air Quality Assessment in respect of there not being a significant impact on air pollution/effect on human health, I consider that these mitigation measures are acceptable. I therefore conclude that there would be no additional significant harm to human health as a consequence of increases in air pollution as a result of the proposed development.

- 9.61 The applicant has confirmed that although the information submitted in respect of traffic flow and highway safety has been updated in response to matters raised by Highways England and KCC Highways and Transportation, the anticipated changes in vehicles movements as a result of the development have not changed from those in the original Transport Assessment. The applicant's air quality consultant has also commented:

"The Air Quality Assessment traffic flow data has recently been updated following a previous email sent from Emma Eisinger (previous Case Officer on the scheme) in December 2017. This email requested for the traffic flows to be updated to reflect previous comments raised by Highways England and Kent County Council. These comments are outlined below:

- *Highways England raised comments in relation to the distribution of development traffic at the M2 Junction 7.*
- *Kent County Council raised comments in relation to methodology used to distribute the development traffic.*

The comments raised by Highways England resulted in the distribution model being updated at the M2 Junction 7 to assign more traffic through the junction and towards Canterbury and Dover. This did not however change the distribution of development traffic along the A2 and A251, as it simply distributed traffic that was already assigned eastbound along the M2 through this junction. This methodology was agreed with Highways England and therefore had no effect on the Air Quality Assessment study area.

The comments raised by Kent County Council regarding the distribution methodology were satisfied following completion of a third Technical Note, dated May 2017, by providing further evidence/detail as to why the current distribution model should be valid. This was agreed with Kent County Council and therefore no changes to the distribution model were made.

In lieu of the above, the only change to the Air Quality Assessment traffic flows was that they were updated to reflect a future year of 2031, in keeping with the end of Local Plan period. These updated traffic flows were issued to you on 11 December 2017, to be forwarded on to Royal HaskoningDHV for assessment.

Further to issuing these updated traffic flows, you subsequently received an email from Alasdair Baxter, of Royal HaskoningDHV, confirming that the original traffic data based on the opening year only, concluded that no further assessment was necessary, and given that the development traffic flows haven't changed, there should be no requirement to update the Air Quality Assessment.

Overall, the results of the previous Air Quality Assessments should continue to be valid and no amendments to the assessment should be required."

- 9.62 In the light of this, I conclude that the previously calculated damage cost calculation remains appropriate.

- 9.63 As noted above (at Paragraph 6.01), a third party has expressed the view that additional light pollution will result from the development. While some additional light pollution is to be expected, given that 250 dwellings are to be built on land previously used for agriculture. Noting the relatively contained location, and the proximity to existing, light-generating land uses, and that the Environmental Protection Team Leader raises no objection to the application, I consider that unacceptable impacts in this regard will not result.

Infrastructure

- 9.64 The development would introduce up to 250 new households to Faversham. Such an increase in population will undoubtedly have an impact on existing local services and facilities, including education, social services, health care and open space/sports facilities. Having consulted various stakeholders, the applicant has been asked to make various contributions towards local infrastructure. The following obligations and contributions are required for this application. The applicant has - except where specified - agreed to a Section 106 agreement to include the following:

- SAMM (SPA mitigation) - £281 per dwelling;
- Secondary education – further to paragraph 7.17 above, KCC have recently submitted an increased request of £4115 per house and £1029 per flat (the original request being £2359.80 per applicable house and £589.95 per applicable flat) and amounting to £1,028,750 assuming a development of 250 houses;
- Libraries - £230.09 per dwelling;
- Community learning - £60.43 per dwelling;
- Youth services - £55.55 per dwelling;
- Social care - £262.94 per dwelling;
- Bins - £92 per dwelling;
- NHS – £225,000 total
- Off-site highway contribution (M2 junction 7) - £53,200
- Off-site highway contribution (A2/A251 junction) - £87,900
- Discounted residents tickets for bus travel (this will consist of the ‘7-Day Swale Megarider’ ticket for six months to be provided for each dwelling, at a cost of £364 per dwelling);
- Off-site allotment - £40.00 per dwelling
- Off-site formal Sport - £593.00 per dwelling (see comments from Greenspaces Manager attached);
- 3 wheelchair adaptable homes as part of the affordable housing requirement;
- Residential Travel Plan;
- 35% affordable housing with a 90:10 split between affordable rent and shared ownership, with proportionate mix spread across the site; four units of wheelchair adapted accommodation are also sought; the applicant has agreed to the 35% affordable, but discussions in respect of the other points are on-going;
- Section 278 Agreement to require off-site highway works in respect of a pedestrian crossing at the A2, the delivery of a new footpath on the southern side of the A2 to connect the application site to the A251, and a bus shelter and paved waiting area to existing bus stop on A2 (east of the site), and localised carriageway widening to the A251 as shown on drawing F16038/O2 Revision F;
- Provision and landscaping of, and on-going maintenance/management, of land to the south (edged in blue) as accessible, natural open space.
- Local Labour and Apprentiships provisions are required, and the Economy and Community Services Manager advises that “...he anticipates training outcomes, largely within the context of apprenticeship opportunities provided”. He also expects that the use of local labour and suppliers will be optimised; and

- A monitoring and administration fee.
- 9.65 With regard to Primary education - £6,000 per applicable house and £1500 per applicable flat was initially requested. However, as set out at paragraph 7.17 above, the applicant has successfully challenged the justification for this contribution so it will no longer be imposed.
- 9.66 With regard to air quality mitigation measures (see paragraph 9.57 above, which sets out the potential mitigation measures) – as explained above, the sum of £225,513 has been calculated through a damage cost calculation process; Members will note that mitigation to this value (in the form of a set of measures) will need to be secured via a suitably-worded planning condition, rather than a payment of this sum of money being included in the Section 106 agreement.
- 9.67 With regard to the pavement link between the A251 and Abbey School – the applicant has agreed to provide this pavement (for a total length of approximately 500 metres), which would extend up to the existing vehicular access to the school from the access to the development site (see condition (36) below). However, it is possible that the pavement may need to be provided by KCC Highways, rather than by the applicant, and in this eventuality a payment would need to be made by the applicant to cover the cost incurred by KCC. I therefore seek authority to include an appropriate payment in the Section 106 agreement, if appropriate.
- 9.68 Members will note that there is a contribution towards off-site sports facilities as opposed to the provision of on-site sports facilities (as encouraged in the supporting text to Policy AX16). The Greenspaces Manager accepts this arrangement and has identified that the money can be allocated to improvements to existing sports facilities in the town.

Other issues

- 9.69 Policy DM26 of the adopted Local Plan refers to Rural Lanes and seeks to prevent development that would physically, or as a result of traffic levels, significantly harm the character of the rural lane. Development should have particular regard to their landscape, amenity and biodiversity, amongst other issues. Salters Lane is to the east of the application site and is classed as a Rural Lane. The proposed development would not have an access onto Salters Lane, thereby limiting the physical impact on its character. The Landscape and Visual Appraisal considers the character of Salters Lane and suggests that the planting of trees along the boundary of the application site where it abuts the lane should remain limited to ensure that the open aspect is retained. The appropriateness of this approach can be assessed in more detail as part of the reserved matters application. The houses are not shown to be located directly adjacent to Salters Lane. Indeed, the Illustrative Masterplan shows them as being 60m away from Salters Lane, again preserving the open aspect of Salters Lane at this point. From the detail provided at this stage, there is no indication for the need to remove existing vegetation along the boundary with Salters Lane and as such, I do not consider that there would be a negative impact on biodiversity. In terms of traffic levels, given the fact that the two proposed accesses are onto the A2 and A251, most traffic generated by the development would directly affect these roads. Whilst there may be some limited increase in traffic travelling along Salters Lane as a consequence of this development, it is unlikely to be at a level that would detract from its rural character. I therefore consider that the development would have no undue impact on the rural lane.

- 9.70 The application is accompanied by an Economic Impact Assessment. This sets out the economic benefits of the development including the creation of construction jobs, household expenditure and, an increased pool of labour for local businesses. In response, the Economy and Community Services Manager states: “*Broadly speaking the document appears to have used standard data sets, although some of the assertions made are not fully justified within the document.*” The report also mentions the New Homes Bonus but I do not consider this to be a material planning consideration in this case.
- 9.71 Members will have noted, at paragraph 1.08 above, that a High Pressure Gas Pipe crosses the site close to the southern site boundary. The consultation responses from the Health and Safety Executive and Southern Gas Networks, at paragraphs 7.03 and 7.04 above, will also be noted. Condition (23) below will ensure that no dwellings are located within nine metres either side of the pipeline, and that the number of dwellings in the ‘middle’ and ‘outer’ zones are limited in number in accordance with the advice from the relevant consultees.

10.0 CONCLUSION

- 10.01 This application is for housing development on land that is allocated for housing within the adopted Local Plan. The principle of this development has therefore already been established. The loss of Best and Most Versatile agricultural land is regrettable but necessary given the housing needs of the Borough. This approach is supported by adopted Local Plan Policy DM31. The only detail to be considered at this outline stage is access. Both Highways England and KCC Highways and Transportation have carefully considered the traffic impact and the details of the access. Despite having to seek additional information and amended plans, the highways issues have been resolved and as set out above, I have concluded that the impact on highway safety and amenity would not be harmful and/or any harm can be adequately mitigated.
- 10.02 The impact on the landscape character and appearance has been carefully considered. The site is contained to the north, east and west to a large extent by existing buildings and sits at a lower level than the A2, Salters Lane and the A251. These existing features greatly reduce the impact on the landscape in my view. Subject to the planting of appropriate tree and hedge screening, I consider that this development would result in no significant harm to the landscape character and appearance of the area. The impact on the AONB has been assessed as being neutral and there would be no harmful impact on the adjacent rural lane (namely Salters Lane), in my view.
- 10.03 The application site lies adjacent to Faversham Conservation Area and is close to the Preston-Next-Faversham Conservation Area. The site also lies within the setting of Orchard Cottage, a grade II listed building. The impact on the setting of these heritage assets has been carefully assessed and I have concluded that the development would preserve these settings. The set back of the housing from the A2 and careful planting along the western boundary responds to the heritage assets positively. The reserved matters application will be able to consider this in more detail with careful attention paid to the scale, height, density and architectural design of the dwellings. In terms of potential archaeological finds, the KCC Archaeological Officer considers that there is more potential for archaeological finds at the site than the submitted Heritage Assessment asserts. However, he is confident that a suitably-worded condition (see condition (13) below) will be sufficient to safeguards this non-designated heritage asset.

- 10.04 I have considered the impact of the development on existing local residents and have not identified any harm or harm that cannot be mitigated by way of restricting hours of construction etc. The impact of noise from existing noise sources i.e. roads, KCC Depot etc. has been considered and I have given the findings of the noise survey and submitted Noise Assessment due weight. Various noise mitigation measures have been suggested within the Assessment and these have been agreed with the Environmental Protection Team Leader. The development as shown on the Illustrative Masterplan does not present an overly dense scheme and I am confident that the reserved matters application will be able to accommodate up to 250 dwellings without resulting in poor relationships between dwellings or inadequate amenity/open space. Moreover, I have suggested a condition (see condition (5) below) to secure the required amount of public open space within the site.
- 10.05 The application is accompanied by, among other documents, an Ecological Assessment and an Arboricultural Assessment, which demonstrates that the impact on ecology and biodiversity would be acceptable, subject to various mitigation measures. The developer has agreed to the payment of the SAMMs contribution (of £281 per dwelling) to go towards SPA mitigation measures. I therefore consider that the impact on the SPA in terms of recreational disturbance would be acceptable.
- 10.06 The applicant has submitted a Minerals Assessment which concludes that it would not be viable to extract brickearth from the site prior to the commencement of the housing development. I agree with this conclusion noting that the development would comply with the Kent Minerals and Waste Local Plan in respect of being exempt from the minerals safeguarding policy owing to its allocation within the adopted Local Plan.
- 10.07 In terms of contaminated land and drainage/flood risk, I am satisfied that the details submitted demonstrate that the land can be developed without presenting an unacceptable risk to groundwaters, human health and surface water flooding. In terms of air quality, I am satisfied that the development would not have a significant impact on existing levels of air pollution within the AQMA and surrounds and would not therefore have a significant effect on human health. Air quality mitigation measures have been proposed by the application and, as set out above, the Environmental Protection Team Leader agrees to the suggested damage cost calculation (see paragraphs 9.54 to 9.59 above).
- 10.08 In terms of infrastructure, the development would make contributions towards secondary education, social services, health and other key local facilities. These are necessary to ensure that the new residents introduced to the area as a consequence of living at the new development would not overburden the existing facilities and/or that the existing facilities have adequate capacity. The developer has committed to providing 35% affordable housing on the site and this would comply with policy DM8 of the adopted Local Plan.
- 10.09 The developer has set out the economic benefits of the development and these are acknowledged.
- 10.10 Having considered the relevant planning policies, comments from consultees and local residents, I am firmly of the view that the proposed development would be acceptable subject to the conditions listed below and a Section 106 agreement to cover matter as set out above (at paragraph 9.61).
- 11.0 RECOMMENDATION – GRANT** Subject to a Section 106 agreement (with the exact wording to be agreed by the Head of Legal Services) and the conditions as set out

below. Authority is also sought to make amendments to conditions and the detail of the Section 106 agreement as may reasonably be required.

CONDITIONS to include

1. Details relating to the layout, scale and appearance of the proposed building(s), and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development to which this permission relates must be begun not later than the expiration of five years from the date of the grant of outline planning permission; or two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby approved shall be carried out in accordance with the following approved drawings:
Drawing Number F16038/02 Revision D, F16038/01 F, and 7391-L-04 Revision E (illustrative masterplan) and –L-02 Revision A.

Reason: For the avoidance of doubt and in the interests of proper planning.

5. The details submitted pursuant to condition (1) above shall include an area of at least 3.15 hectares which shall be reserved for public open space. Play spaces shall be provided within this open space and shall be surfaced and equipped with play equipment, in accordance with a schedule agreed by the Local Planning Authority before development is commenced (with the exception of ground preparation works) and shall be provided before the occupation of the 125th dwelling or in accordance with a programme that shall have been agreed in writing by the Local Planning Authority before the occupation of the 125th dwelling; no permanent development whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 or not shall be carried out in the areas so shown without the prior written approval of the Local Planning Authority.

Reason: To ensure that the quality and quantity of open space meets the needs of the future residents of the site and existing residents in the surrounding area.

6. Prior to the commencement of development (with the exception of demolition), details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved details. The buildings hereby approved, the details of which are to be

agreed under condition (1) shall not exceed a height of 8.5m above the agreed finished floor levels.

Reason: In the interests of visual amenities and preserving the character and appearance of the landscape.

7. The details submitted pursuant to condition (1) above shall include details of a pedestrian and cycle path to connect the housing development hereby approved to the land immediately to the west (known as land adjacent Orchard Cottage) in broadly the position shown on the Illustrative Masterplan (drawing number 7391-L-04 revision E) and, in particular, to a path to be provided through that site (to connect ultimately to the Ashford Road). None of the dwellings hereby approved shall be first occupied until details have been agreed to pursuant to this condition, which shall include a programme for the implementation of the path and arrangements for it to be kept available for public use in perpetuity. Thereafter the path shall be open to members of the public as pedestrians only at all times. In the event that it is necessary to close the path to pedestrians to enable works necessary for the resurfacing of the path, no such works shall be undertaken unless notice has first been served on the Local Planning Authority at least 10 days before the proposed closure detailing what works are required to be undertaken and stating the duration of those works.

Reason: In the interests of maximising connectivity between the site and adjacent development sites and in the interests of encouraging sustainable, non-car modes of travel.

8. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the Local Planning Authority:
- A. A preliminary risk assessment which has identified:
- all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- B. A site investigation scheme, based on (A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- C. The results of the site investigation and the detailed risk assessment referred to in (B) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- D. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (C) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reasons To prevent pollution of controlled waters and risks to human health.

9. Prior to the occupation of any dwelling hereby approved, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to

demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons To prevent pollution of controlled waters and risks to human health.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons To prevent pollution of controlled waters and risks to human health.

11. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reasons: Piling can result in risks to groundwater quality.

12. Prior to the commencement of the development, a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- Hours of working and timing of deliveries
- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Management of traffic visiting the site(s) including temporary parking or holding areas
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Routing of construction and delivery vehicles to / from site
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- Provision of wheel washing facilities
- Temporary traffic management / signage
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works

- Details of how the construction will proceed in accordance with the conditions sets out in the consultee response by Southern Gas Networks email dated 25th January 2017
- The arrangements for public consultation and liaison during the construction works.

Reason: In the interests of residential amenity, highway safety and amenity.

13. The details submitted pursuant to condition (1) above shall show adequate land reserved for the parking or garaging of cars and such land shall be kept available for this purpose at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not shall be carried out on such land or in a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

14. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
- i) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
 - ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

15. The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture, as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins and in accordance with a schedule of house completion and an implementation programme for the agreed works, also to be submitted to the Local Planning Authority for approval in writing.

Reason: To ensure that the roads are constructed and laid-out in a satisfactory manner.

16. The details submitted pursuant to condition (1) above shall include details of covered secure cycle parking facilities for each dwelling. The approved cycle parking shall thereafter be provided prior to the occupation of dwellings hereby approved, and retained in perpetuity.

Reason: To ensure that there is sufficient cycle parking at the site in the interests of sustainable development.

17. The details submitted pursuant to condition (1) above shall include details of both hard and soft landscape works have been submitted to and approved in writing by

the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, the retention and reinforcement of vegetation along the western boundary, the provision of structural planting to provide screening for the dwellings within the site, to the southern and eastern boundaries, the provision of a community orchard within the open space, and a footpath connection between the application site and the adjacent land known as Orchard Cottage, and an implementation programme.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

18. All hard and soft landscape works shall be carried out in accordance with the approved details. The structural planting works to the southern boundary shall be carried out within six months of the commencement of development, the structural planting works to the eastern boundary shall be carried out prior to the occupation of any part of the development and all other hard and soft landscaping works shall be carried out in accordance with the programme agreed in writing with the Local Planning Authority.

Reasons: In the interests of the visual amenities of the area, landscape quality and of encouraging wildlife and biodiversity.

19. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting, or ten years for the structural planting along the southern and eastern boundaries, shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

20. The details submitted pursuant to condition (1) above shall include details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

21. The details submitted pursuant to condition (1) above shall include details which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

Reason: In the interest of promoting energy efficiency and sustainable development, and in pursuance.

22. The details submitted pursuant to condition (1) above shall include measures to minimise the risk of crime via measures, according to the principles and physical

security requirements of Crime Prevention through Environmental Design (CPTED). The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason for the condition: In the interest of Security, Crime Prevention and Community Safety.

23. The details of the layout submitted under condition (1) above shall ensure that there are no dwellings located within nine meters either side of the high pressure gas pipeline that runs through the site. Any dwellings within the middle and outer zones of the high pressure gas pipeline, as identified on the Health and Safety Executive map (12th January 2017) shall not exceed more than 30 in number and/or more than 40 dwellings per hectare.

Reason: In the interests of health and safety and the protection of important gas infrastructure.

24. No development shall take place (including any ground works, site clearance) until a method statement for mitigating protected species impacts has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the following:
- a) Purpose and objectives for the proposed works;
 - b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives, informed by updated ecological surveys where necessary;
 - c) Extent and location of proposed works shown on appropriate scale maps and plans;
 - d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to oversee works;

The works shall be carried out strictly in accordance with the approved details.

Reason: To protect biodiversity.

25. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese knotweed on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: For the removal of invasive species in line with schedule 9 of the Wildlife and Countryside Act 1981 (as amended) and the Environment Protection Act 1990.

26. No development shall take place (with the exception of site clearance, excavation and other ground preparation works) until an Ecological Design Strategy (EDS) addressing ecological enhancement of the site has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
- a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Detailed design(s) and/or working method(s) to achieve stated objectives.
 - d) Extent and location/area of proposed works on appropriate scale maps and plans.
 - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.

- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long term maintenance.
- i) Details for monitoring and remedial measures.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To enhance biodiversity

27. The vehicular accesses to the site as shown on the approved drawings (namely F16038/02 Revision D and F16038/01 F) shall be constructed and completed prior to the commencement of the development hereby permitted.

Reason: To ensure that a satisfactory means of access is provided for the site.

28. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed via infiltration measures located within the curtilage of the site. The detailed drainage scheme shall take into account all flows that may be received from areas outside of the application boundary and provide appropriate mitigation measures to safeguard the development against flooding from these off-site sources.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources.

29. No dwelling hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources.

30. Development shall not begin until a hydrogeological risk assessment is submitted to and approved in writing by Local Planning Authority that demonstrates there is no resultant unacceptable risk to controlled waters and/or ground stability as a result of infiltration of surface water from the development. The details shall only then be implemented in accordance with the approved details.

Reasons: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure ongoing efficacy of the drainage provisions, to protect vulnerable groundwater resources.

31. Prior to commencement of development hereby approved (with the exception of site clearance and groundworks) a detailed Noise Assessment based on the layout of the dwellings to be submitted at the reserved matters stage and the Noise Assessment submitted at the outline stage (December 2016 ref: I&BPB5540R002F02), shall be submitted to the Local Planning Authority for approval in writing. The detailed Noise Assessment shall specify noise mitigation measures that shall be put in place to ensure that the predicted noise impacts as set out in the Noise Assessment (December 2016) are not exceeded. The development shall then be implemented in strict accordance with the requirements of the detailed Noise Assessment.

Reason: To safeguard the residential amenities of the future occupants of the dwellings hereby approved.

32. Prior to first occupation of each of the dwellings hereby approved, the following works between a dwelling and the adopted highway shall have been completed:
- (a) Footways and/or footpaths, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway safety and amenity.

33. The visibility splays for the accesses hereby approved as shown on the submitted plans (namely drawing number F16038/02 Revision D and drawing number F16038/01 F) shall be provided prior to the first use access and shall thereafter be maintained with no obstructions over 0.9 metres above carriageway level within the splays, prior to the use of the site commencing.

Reason: In the interests of highway safety and amenity.

34. The landscaping details to be submitted in accordance with condition (1) above shall include:
- (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site to be retained and indicating the crown spread of each tree.
 - (b) details of the size, species, diameter, approximate height and an assessment of the general state of health and stability of each retained tree.
 - (c) details of any proposed arboricultural works to any retained tree, which shall be carried out in accordance with British Standard 3998 (tree work).
 - (d) details of any alterations in ground levels and of the position of any excavation or other engineering works within the crown spread of any retained tree.
 - (e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development

In this condition “retained tree” means any existing tree which is to be retained in accordance with the drawing referred to in (a) above.

Reason: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area, ecology and biodiversity.

35. Prior to the commencement of the development hereby approved (other than demolition, ground remediation and site levelling works), a detailed strategy for achieving the required damage cost calculation of £225,513 over a five year period to offset development-generated transport emissions on local air quality as set out in the Air Quality Assessment (Royal HaskoningDHV, December 2016, ref. PB5540/I&B/R001D01) and Air Quality Emission Damage Cost Calculation and Suggested Mitigation for Preston Fields, Faversham (Royal HaskoningDHV, 21 February 2017, ref. PB5540/I&B/N001/F01) shall be submitted to and agreed with the Local Planning Authority. The approved infrastructure shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: in the interests of mitigation potential adverse impact on air quality in the Ospringe Air Quality Management Area.

36. Prior to commencement of development a scheme detailing the location and implementation of a footway link to the south of the A2 between the A251 Ashford Road and the Abbey School shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in complete accordance with the approved details

Reason: in the interests of highway safety and of encouraging sustainable, non-car modes of travel.

37. The details submitted to pursuant to condition (1) above shall include measures to prevent the discharge of surface water on to the public highway. The agreed measures shall then be retained in perpetuity.

Reason: in the interests of highway safety.

INFORMATIVES

1. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.
2. Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk
3. The following points should be noted wherever infiltration drainage (such as soakaways) is proposed at a site:
 - Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks. Clean uncontaminated roof water

- should drain directly to the system entering after any pollution prevention methods.
- No infiltration system should be sited in or allowed to discharge into made ground, land impacted by contamination or land previously identified as being contaminated.
 - There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.
 - A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.
 - Where infiltration SuDS are proposed for anything other than clean roof drainage in a Source Protection Zone 1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.
4. Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: Duty of Care Regulations 1991 Hazardous Waste (England and Wales) Regulations 2005 Environmental Permitting (England and Wales) Regulations 2010 The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.
 5. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>
 6. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
 7. The development shall be carried out in accordance with the information provided by SGN in their consultation response of 25 January 2017, including the requirement that any works within three metres of the high pressure gas pipeline should be hand-

dug. Notwithstanding the submitted information, the precise position of the pipeline should be established on-site before further works are carried out.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was advised of minor changes required to the application and these were agreed.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Case Officer: Jim Wilson

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

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX: HABITATS REGULATIONS ASSESSMENT

Context

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires *Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.*

For proposals likely to have a significant effect on a European site, the Conservation of Habitats and Species Regulations (2010) requires the Council to make an appropriate assessment of the implications for the site. Para. 119 of the NPPF states that *"The presumption in favour of sustainable development ... does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Given the scales of housing development proposed around the North Kent SPAs, the North Kent Environmental Planning Group (NKEPG) commissioned a number of reports to assess the current and future levels of recreational activity on the North Kent Marshes SPAs and Ramsar sites. NKEPG comprises Canterbury, Dartford, Gravesham, Medway and Swale local authorities, together with Natural England and other stakeholders. The following evidence has been compiled:

- Bird Disturbance Study, North Kent 2010/11 (Footprint Ecology).
- What do we know about the birds and habitats of the North Kent Marshes? (Natural England

Commissioned Report 2011).

- North Kent Visitor Survey Results (Footprint Ecology 2011).
- Estuary Users Survey (Medway Swale Estuary Partnerships, 2011).
- North Kent Comparative Recreation Study (Footprint Ecology 2012).
- Recent Wetland Bird Surveys results produced by the British Trust for Ornithology.
- Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014).

In July 2012, an overarching report summarised the evidence to enable the findings to be used in the assessment of development. The report concluded (in summary):

- There have been marked declines in the numbers of birds using the three SPAs.
- Disturbance is a potential cause of the declines. The bird disturbance study provided evidence that the busiest locations support particularly low numbers of birds.
- Within the Medway, the areas that have seen the most marked declines are the area north of Gillingham, including the area around Riverside Country Park. This is one of the busiest areas in terms of recreational pressure.
- Access levels are linked to local housing, with much of the access involving frequent use by local residents.
- Bird disturbance study - dog walking accounted for 55% of all major flight observations, with a further 15% attributed to walkers without dogs along the shore.
- All activities (i.e. the volume of people) are potentially likely to contribute to additional pressure on the SPA sites. Dog walking, and in particular dog walking with dogs off leads, is currently the main cause of disturbance.
- Development within 6km of the SPAs is particularly likely to lead to increase in recreational use.

Natural England's advice to the affected local authorities is that it is likely that a significant effect will occur on the SPAs/Ramsar sites from recreational pressure arising from new housing proposals in the North Kent coastal area.

The agreed response between Natural England and the local authorities is to put in place strategic mitigation to avoid this effect – a 'strategic solution.' This provides strategic mitigation for the effects of recreational disturbance arising from development pressure on international sites and will normally enable residential development to proceed on basis of mitigation provided avoiding a likely significant effect.

This strategic approach is set out in the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (Footprint Ecology 2014). It will normally require the creation of on-site mitigation, such as the creation of open space suitable for dog walking and, secondly, via payment of a dwelling tariff for off-site impacts. The money collected from the tariff would be used by the North Kent Councils and its partners for mitigation projects such as wardening, education, diversionary projects and habitat creation. The policy context for such actions is provided by policies CP7 and DM28 of the adopted Local Plan.

Associated information

The applicant's ecological assessment dated December 2016 contains information to assist this HRA. Importantly, it clarifies that the applicant is willing to commit to contributions towards the strategic mitigation noted above.

Natural England's email to SBC dated 17th January 2017 has also been considered; in particular that they have raised no objections subject to contributions towards strategic mitigation.

The Assessment of Preston Fields, London Road, Faversham

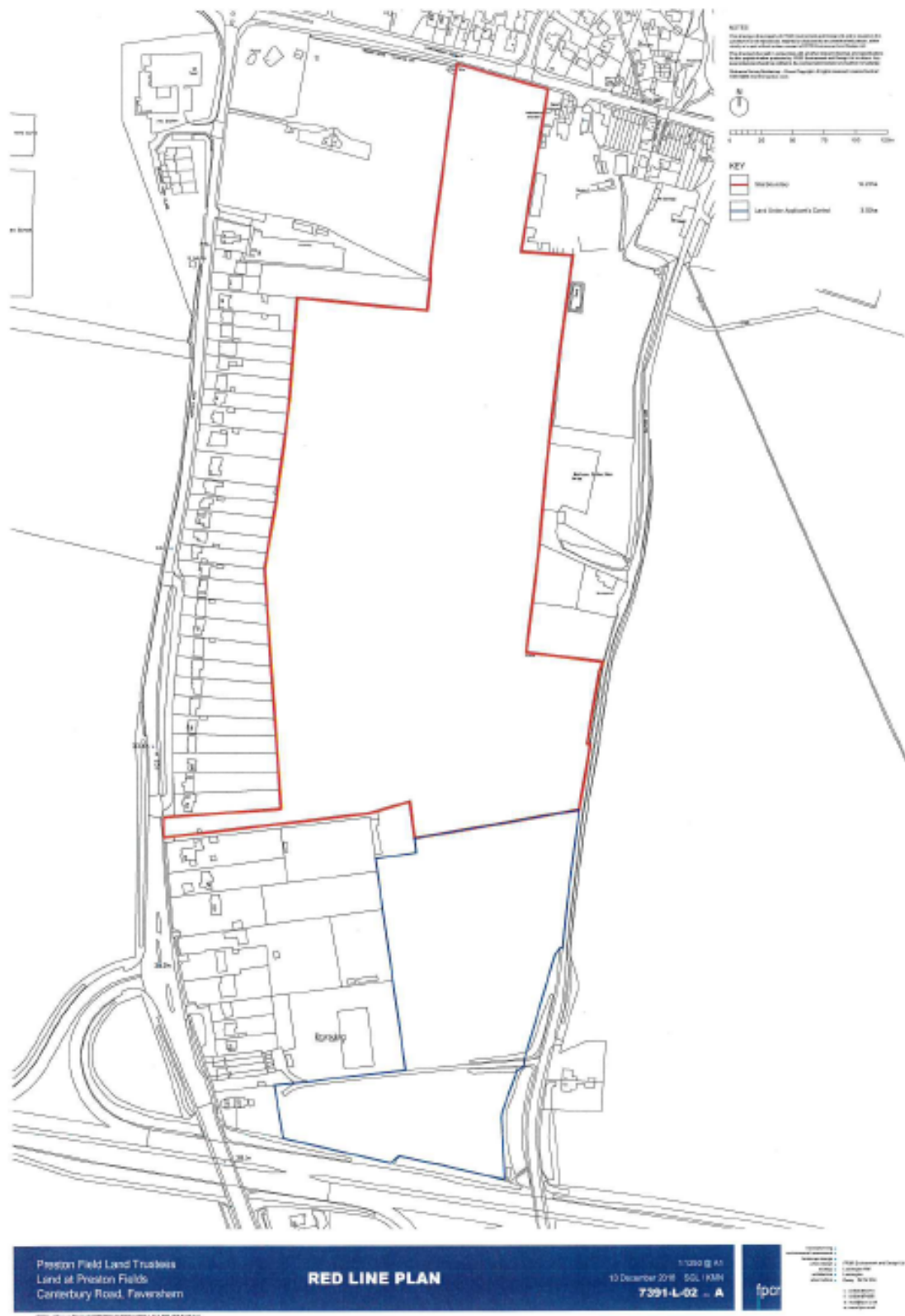
The application site is located 1.6km to the south of the Swale SPA. Therefore, there is a medium possibility that future residents of the site will access footpaths and land within these European designated areas.

Measures are to be taken to reduce the impact on the SPA and these would be built into the development in respect of the provision of public open space.

This assessment has taken into account the availability of other public footpaths close to the site and to a lesser extent, the open space proposed within the site. Whilst these would no doubt supplement many day-to-day recreational activities, there would be some leakage to the SPA. However, the commitment of the applicant to contribute £281 per dwelling to address SPA recreational disturbance towards through strategic mitigation in line with recommendations of the Thames Medway and Swale Estuaries SAMM as detailed above, will off-set some of the impacts. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment.



REPORT SUMMARY

2.5 REFERENCE NO - 17/503673/REM			
APPLICATION PROPOSAL			
Reserved matters (Access, Appearance, Landscaping, Layout and Scale) following outline permission SW/14/0023 Creation of a public park to include: paved access route to waterfront; skate park for wheeled sports and a picnic area.			
ADDRESS Proposed Park And Skate Park The Wall Sittingbourne Kent ME10 2GZ			
RECOMMENDATION – That the Reserved Matters are APPROVED			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
The reserved matters would accord with the terms of the Outline Planning Permission and the scale, layout, external appearance, access and landscaping of the development is considered to be acceptable and in accordance with the adopted development plan.			
REASON FOR REFERRAL TO COMMITTEE			
The application is on land owned by the Council, and the Council has been a key stakeholder in bringing this development forward.			
WARD Chalkwell	PARISH/TOWN COUNCIL	APPLICANT Gravity Engineering Limited	AGENT Gravity Engineering Limited
DECISION DUE DATE 20/09/17	PUBLICITY EXPIRY DATE 23/11/17	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/11/0159	Hybrid application seeking; outline planning permission (Phases 3,4 & 5) for up to 1,200sqm of leisure use floorspace, 250sqm of community floorspace, 150 residential units, in buildings ranging from 2 to 4 storeys in height, together with car and cycle parking; and incorporating detailed planning permission (Phase 1) for a retail food store of 6,682sqm, petrol filling station of 72sqm together with associated landscaping, car and cycle parking & full landscaping detail for new parkland areas (Phases 2 & 3).	Granted	08/02/12
SW/14/0023	Creation of a public park to include: paved access route to waterfront; skate park for wheeled sports with concrete bowls, partially covered skate plaza, and beginner area; tree planting; artworks, climbing boulder; and entrance area including some natural play and a picnic area.	Granted	06/08/14
<i>This was an outline planning permission which establishes the acceptability of use of the land for such purposes, with matters of access, appearance, landscaping, scale and design reserved for future consideration.</i>			

15/501934	Proposed barge museum with access from Sittingbourne retail park	Granted	21/01/16
<p><i>This relates to a parcel of land immediate to the east of the site, running close to the boundary with Milton Creek. Access to the barge museum would be via the same roadway and access point as proposed in this skate park application.</i></p>			

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site falls within the built up area of Sittingbourne and within a designated regeneration area under the adopted local plan. It is located to the north and west of the Sittingbourne retail park, and the site is accessed via a service road off The Wall, which also provides access to the Sittingbourne and Kemsley Light Railway (SKLR) car park.
- 1.02 The site was historically part of the Sittingbourne paper mill site. Planning permission was granted for the development of this site as a waterside park under SW/11/0159 as part of a larger application for the Morrisons foodstore, residential development and leisure building. A heritage centre was also envisaged under this 2011 application, and permission for a barge museum was granted under 15/501934. This included access through the land subject to this current application to provide a link between the barge museum and the access road leading to The Wall.
- 1.03 The site is largely laid to concrete hardstanding, with the remnants of railway tracks on parts of the site, and self seeded vegetation growing through. The site varies in level, sloping up from the site entrance in the southern section of the site towards the former bridge over the Mill Way, stepping down in height from the site entrance towards the centre of the site, and then rising into a landscaped embankment adjacent to the SKLR boundary on the western boundary of the site.
- 1.04 The northern boundary of the site runs to the edge of Milton Creek. The land to the north of the site beyond the head of the creek is industrial in character, with buildings of varying size and appearance, and associated open storage uses.
- 1.05 The eastern boundary is open and undefined by fencing, but is characterised by hardstandings that have been colonised over a period of time by vegetation. Beyond this, the land backs onto Halfords.
- 1.06 The site lies 2.3km to the east of the Swale SSSI, Ramsar site and Special Protection Area. The site is also within flood zones 2 and 3 (areas vulnerable to flood risk) and Source Protection Zones 1, 2 and 3 (for the protection of potable ground water). The site is within the built-up area boundary and within a Regeneration Area under the adopted local plan which incorporates Milton Creek. The site also falls within an area of archaeological potential.

2.0 PROPOSAL

- 2.01 This application seeks the approval of reserved matters relating to access, layout, appearance, scale and landscaping for the public park as approved in outline form under SW/14/0023.
- 2.02 The plans and supporting information set out that **access** would be provided through the existing gates onto the access road leading to The Wall. The gates would primarily provide pedestrian access to the site, and the use of managed bollards would provide vehicular access to the site when required, as well as access to the barge museum when constructed and open.
- 2.03 The **layout** of the development sets out that the skate park would be located in the southern section of the site, with an “urban” park to the north, containing a climbing wall, bouldering and impact pit, a young children’s marked cycle route, natural play area, picnic tables and litter bins.
- 2.04 The **appearance** of the skate facility, by its very nature, would consist of a series of concrete ramps and bowls. The park area to the north would essentially be built on the existing hard surface. The access road running through the site would be finished in tarmac, with an area shown around the parking spaces on site to be finished in resin bonded gravel.
- 2.05 The **scale** of the development would vary. The skate park facility would be roughly 38 metres in length and 24 metres in width. It would be partially built into existing levels, and the submitted drawings show that at its highest point (the northernmost ramp) the skate park structure would be up to 3.4 metres in height. An art wall would be located on the north side of this ramp.
- 2.06 The rock climbing wall would be 10 metres wide and 3 metres in height, and would be sited adjacent to the embankment on the western side of the site. The bouldering and impact pit would be in a more central location and would measure 5 metres in width and 3 metres in height.
- 2.07 In terms of **landscaping**, the plans show that the existing landscaped embankment on the west side of the site and leading to the boundary with the SKLR would be retained. Land surrounding the southern and eastern sides of the skate park between the site boundaries / access road would be turfed and planted with shrubs. Three trees would be planted in the park area to the north. In addition, the applicant has agreed to provide further planting as a means to deter access to the south west corner of the site, where the boundary with the SKLR is more easily accessed.
- 2.08 Conditions 5 and 6 of the outline planning permission also require details of external finishing materials and details of external boundary treatment to be submitted with the reserved matters. In this respect, the main external finishes would be as set out in paragraph 2.04 above. In terms of boundary treatment, the following is proposed –
- Southern boundary – landscaped with fencing as existing
 - Western boundary – embankment with landscaping on application site to be retained. Existing mesh fence line to be retained as existing
 - Northern boundary – small area of open boundary with Milton Creek to be enclosed with a post and chain fence of 1 metre in height. Remainder to be landscaped / fenced as existing
 - Eastern boundary – this boundary of the application site, beyond the proposed internal access road, falls outside of the Council’s ownership (as does the access

road). The erection of a permanent fence in this location is not currently possible as the land falls outside of the ownership of the Council. The application proposes a temporary herras type fence along this boundary.

- 2.09 The outline permission includes a series of planning conditions that do not form part of the reserved matters, and these cover archaeology, contamination, drainage, biodiversity improvements, cycle parking, reptile surveys, external lighting, and limitations on the number of organised events. Some of these require information to be submitted and approved prior to commencement of development – and will be dealt with separately from this application.
- 2.10 The land is owned by the Council. Funding for the skate park has been secured using a combination of grant funding, Council funding, and fundraising. The Council has arranged to lease the land on a long term basis to the Brogdale Community Interest Company, who will manage the park.

3.0 PLANNING CONSTRAINTS

- 3.01 Within Flood Zones 2 and 3
 Within a Source Protection Zone
 Within an identified regeneration area
 Within an area of potential archaeological importance
 SSSI Consult Zone

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) – paragraphs 17 (core planning principles), 57 and 58 (good design), 69 and 70 (providing healthy communities and high quality public space)
- 4.02 The adopted Swale Borough Local Plan – “Bearing Fruits 2031” – Policies ST5 (Sittingbourne Area Strategy), CP4 (requiring good design), CP5 (Health and Wellbeing), CP6 (community services and facilities), Regen 1(Central Sittingbourne Regeneration Area), DM14 (General Development Criteria), DM17 (Open Space, Sports and Recreation provision).
- 4.03 Supplementary Planning Documents: The Sittingbourne Town Centre and Milton Creek SPG – Members will be aware that this SPG was adopted in 2010 to complement policies contained within the former local plan, which sought to deliver substantial development and change to the town centre and creek area, including a major expansion of the town centre over the railway line, with a bridge connection, and the provision of new retail, residential and community uses in the Milton Creek area. This included the potential to open up the Creekside for public use. The grander scale of development within the town centre and creek area as envisaged under the SPD has been scaled down in the newly adopted local plan, although the SPD still holds material weight.

5.0 LOCAL REPRESENTATIONS

- 5.01 6 representations have been received in support of the application (3 from the same person). One contains a further 9 messages from persons in support of the application.
- We have been waiting for a wheeled sports park for over 40 years
 - It will provide a thriving place for all people as part of a skateboard community
 - The town needs a purpose built and designated facility

- It will help focus young people and give them something to be proud of
- This is the final hurdle in a 6 year campaign to provide a facility
- It will provide a safe place for children / youths to ride
- New housing developments place more need for facilities such as this to be provided
- It provides a place for young people to be active
- It will provide a high quality facility in the South East
- It will benefit local business, such as the High Street, retail park, and future cinema

5.02 8 representations have been received objecting to the application (mainly from Trustees / volunteers of the SKLR) .

- SKLR welcomes the development of the land, and has worked as part of the Skate Park group for many years. However this was on the basis that the fence between the site and SKLR would be improved. In the absence of this, or CCTV / permanent management presence, there is a security risk re trespass onto the railway and/or vandalism.
- The risk of trespass onto SKLR will increase through provision of a public park – as at present the application site is not publicly accessible.
- Condition 6 of the outline permission requires details of boundary treatment to be approved.
- The SKLR should not be put to the expense of improving / securing this boundary.
- There is a risk that further clearance of landscaping may take place in the future – which would provide easier access to this fence line.
- The scheme fails to provide disabled access to the SKLR

5.03 Cllr Whiting has written in support of the application on the basis that it would provide a facility for young persons and families, and would be run by the Brogdale CIC who have an excellent track record in delivering projects that engage and benefit young people. The site is in a good location and would provide a high quality facility.

6.0 CONSULTATIONS

6.01 **KCC Drainage** – No objection

6.02 **KCC Highways** – No objection

6.03 **KCC Rights of Way team** – state that the development offers the potential to provide a public route from this site into the Crown Quay Lane development to the east, and that a 3 metre wide sealed surface path should be secured that could become a designated cycle route in the future.

6.04 **Environmental Health** – No objection raised.

6.05 **Swale Footpaths** – agree with KCC Rights of way that a footpath link through the site would be a useful route for walkers and cyclists.

6.06 **Southern Water** – do not wish to comment

6.07 **SBC Greenspaces Manager** – The design is understandably mostly hard landscaping allied to the wheeled sport theme with an adjacent family area consisting of other outdoor activity areas. Given the above and constraints of the site in terms of its linear nature and need to allow for access, landscaping opportunities are limited.

Existing trees and scrub are retained to the north and west which is appreciated both from a biodiversity perspective and to retain a level of security & buffer for the adjacent properties. The small amount of tree planting shown (tree species not identified) will provide a level of shade while not causing huge maintenance issues at leaf fall, but given the location and usage of the site, I would suggest that any tree planting will need a level of protection in order to establish the stock. Bins provided should be signed as dual use litter/dog in order to encourage appropriate usage.

My only comment concerning the Management Plan would relate to the need for a comprehensive risk assessment to be maintained and that inspection of the site should be by an appropriately trained person.

Generally we are very supportive of the application given the demand for appropriate facilities and it will be good to see a long term derelict site come back into use.

6.08 Kent Police - make the following recommendations –

- That boundaries can be enhanced by defensive planting of prickly and non-poisonous plants
- Litter bins should be fixed to the ground and of anti-graffiti material
- The site must be closed during hours of darkness unless for a supervised event. Bollards must be of a fixed and lockable type.
- Suggest installation of a help call point facility near to the gate
- Entrance gate to be a minimum of 1.8 metres in height
- CCTV is essential to maintain the security and safety of the site and users.
- Herras fencing should be a minimum of 1.8 metres in height with supports to discourage climbing / removal
- Raise concern regarding ease of access along the Creekside .

7.0 APPRAISAL

Principle of Development

- 7.01 The principle of a skate park / public park on this site is clearly established through the grant of outline planning permission. This application seeks approval of the detailed reserved matters relating to the design and layout of the park, and Members will appreciate that the use itself is already approved.
- 7.02 The outline permission as approved was for a public park, to include a paved access route to the waterfront, skate park and plaza, tree planting, artworks, climbing boulder, entrance area, and natural play / picnic area. It is fair to say that the illustrative plans submitted with the outline application were perhaps on a grander scale than is now proposed – but nonetheless the reserved matters application contains the essential features of the public park / skate park that the outline permission was based upon.
- 7.03 The parcel of land subject to the reserved matters is also slightly smaller than at outline stage. The main changes in area relate to the north east and southern sections of the site. The outline scheme was permitted prior to submission of the application for the barge museum, and this was subsequently permitted to utilise a section of land that formed part of the skate park proposal. In addition, a triangular parcel of land at the southern end of the site has been excluded from the detailed design. The two parcels of land are however reasonably limited in size (at approx. 12% of the site area), and I do not consider that the removal of these two areas

would fundamentally alter the size and parameters of the site to the point that it would materially affect the essence of the development permitted at outline stage.

- 7.04 Policy Regen 1 of the adopted plan and the Sittingbourne Town Centre and Milton Creek SPD continue to support a range of improvements to the town centre and the provision of a range of facilities including cultural / community / leisure uses. Paragraph 6.7.29 of the adopted plan sets out the use of this land as a skate park facility as a means to enhance the creek and link to the country park. The SPD sets out the aim for this area to be developed as a cluster of cultural, heritage and tourist attractions. The skate park would add to the steam railway and the approved barge museum as part of this cluster.
- 7.05 Overall, I am satisfied that the reserved matters follow the essence of the development permitted at outline stage.

Access, Layout, Appearance and Scale of the development.

- 7.06 The main access would be provided via the road leading from The Wall, as this is currently the only point where such access to the site can be provided. A right of access exists through the existing site entrance on this road, but otherwise there are no access points available for use. The proposal would provide a pedestrian gate opening within the existing gate – and this will be unlocked and locked each day to allow access to the site. The main gates would be fully opened to allow occasional vehicular access (such as by an emergency vehicle), and access to the barge museum as and when this is built and opened.
- 7.07 Whilst there is only emergency / occasional access to the two parking spaces, I am satisfied that the edge of town centre location and the nature of the use is unlikely to lead to any unacceptable parking demands in the locality – and I note that KCC Highways do not raise objection to the proposal.
- 7.08 In terms of layout, appearance and scale, the skate park facility itself is of typical design, featuring a range of bowls, plateaus and ramps for use, finished in a buff concrete. It would be sited below the level of the site entrance due to changing site levels, and also below the level of the adjacent SKLR. I am satisfied that the detailed design of the skate facility is acceptable.
- 7.09 The remaining park area would accommodate a climbing wall, bouldering wall, play area, children's bike circuit and picnic tables. These would be provided within the existing hard surfaced area. Whilst some structures would be up to 3 metres in height, they would not be particularly visible from outside the site and do not cause any visual harm. Whilst the design of this park has more of an urban character than most conventional parks, this does suit the overall nature of the skate park facility, and the industrial character of the surrounding area in general. Members will note that the Council's Greenspaces Manager supports the design and layout of the scheme, subject to some minor adjustments.

Hard and soft landscaping, including boundary treatment

- 7.10 In accordance with conditions 5 and 6 of the outline permission, the applicant has provided a list of external finish materials, boundary treatments, and soft landscaping as part of the reserved matters. The external finishes are largely dictated by the specific nature of the uses – the skate park facility would be built in concrete, the access road would be in tarmac, and the park area would essentially use the existing

hardstanding. I consider that these are appropriate finishes for what is essentially an urban park in largely urban and industrial surroundings.

- 7.11 The soft landscaping proposals include the retention of tree planting on the embankment adjacent to the SKLR boundary, and limited new tree planting within the park and adjacent to the skate facility. In addition, the applicant has agreed to provide further planting at locations to make access to the SKLR boundary more difficult, in the form of prickly / thorny species. Whilst the finish and urban form of the park would be somewhat different to a “conventional” park, where more grassed areas and landscaping may be expected, the concept for the development has always been to relate to the urban / industrial character of the site – and in this respect I consider the landscaping to be acceptable.
- 7.12 The boundary treatments for the site are set out in paragraph 2.08. The boundary with the SKLR would remain as existing – which is currently a wire mesh fence of some 2 metres in height. This boundary is largely sited at a higher level than the skate park, and the top of a vegetated embankment. Part of the fence has been damaged / deteriorated in places and has been replaced / strengthened by temporary herras style fencing.
- 7.13 Members will be aware that a significant number of objections received relate to the lack of a suitable replacement fence along this boundary. However the existing fence does form a means of enclosure to deter trespassers, and the majority of the boundary runs adjacent to a relatively steep landscaped embankment, that also serves to act as a deterrent. Kent Police recommend that defensible planting is undertaken in areas of the site – one of which would be the south west corner, and beyond the embankment, where perhaps this boundary is slightly more vulnerable. This would be through the use of specific prickly / thorny species to deter access to these parts of the site.
- 7.14 In my opinion, the above measures would be appropriate for the purposes of this application, and to meet the terms of condition 6 of the outline permission – which was imposed for reasons of visual amenity.
- 7.15 The boundaries to the north and south of the site would remain as existing – which are a mix of wire mesh fencing and palisade fencing. The boundary to the east would be a temporary herras style fence. Whilst this is not ideal, the land on the eastern boundary does not fall under the Council’s control and it is not able to erect a permanent fence at this boundary. In visual terms, whilst a permanent fence would be far more preferable, I do not consider a herras fence to be so out of keeping with the surrounding industrial character that it would justify refusal.
- 7.16 The application site extends a small distance along the line of the creek, and a 1 metre high post and chain fence is proposed. In visual terms, I am of the opinion that a larger and more robust fence in this location would be at odds with the longer term aspiration to open up the Creekside and potentially provide a route along it, whereas the post and chain fence as proposed would be more appropriate. I am also mindful that the requirement to provide boundary details under condition 6 of the outline permission was on the basis of visual amenity and not health and safety grounds – and that the Council (in its role as landowner) and/or Brogdale CIC will need to ensure that the park, as a public facility, meets health and safety requirements, and that such concerns raised by Kent Police would be best dealt with in this way.

- 7.17 Taking the above into account, I am satisfied that the overall layout, appearance, access, siting and landscaping details would be acceptable and in line with policy DM14 of the adopted plan.

Residential / Surrounding Amenity

- 7.18 The site is not located close to any residential properties and therefore no harmful impacts would arise in this respect. I also consider the site to be suitably divorced from surrounding buildings and uses, such as the retail park and SKLR, to prevent any unacceptable amenity impacts from arising. This would be in accordance with Policy DM14 of the adopted plan.

Crime Prevention and Safety

- 7.19 Members will note the comments from Kent Police in the consultations section of this report. There has been ongoing dialogue between the applicant, the Council and the police regarding the use of this site and the measures necessary to reduce / prevent crime and maintain safety. Members will note that Kent Police raise particular concern in respect of the absence of CCTV and also query the effectiveness of any boundary treatment adjacent to the creek.
- 7.20 The supporting information with the application sets out that CCTV will not be installed from the outset, but that the need for CCTV will be monitored over a period of time following the opening of the park. Council officers within the Community Safety Unit have also subsequently advised that CCTV will be considered by the Council as part of a separate project, and in line with the Home Office CCTV Code of Practice. Therefore, the need for and future use of CCTV will be considered at a later date.
- 7.21 Whilst this approach, to rely on an applicant / developer to consider CCTV installation at a later date, is not normal practice, I consider that there are some mitigating circumstances to apply to this application. Firstly, the need for crime prevention measures was not explicitly secured via a condition at outline application stage. On this basis, I would have reservations that there would be sufficient justification to require these details as a reserved matter. Secondly, the land is owned by the Council and will be subject to a long term lease granted to the Brogdale CIC. As both a responsible public authority and landowner, it would remain in the Council's remit to deal with any potential future issues of crime and safety.
- 7.22 Members will also note that Kent Police have raised concern over the treatment of the boundary adjacent to the creek – and the possible danger that a person could fall into the creek. I have explained above why it would be inappropriate to install a significant enclosure to the Creekside on visual amenity grounds. I have also explained above that the Council and/or Brogdale CIC will need to ensure that the park, as a public facility, will meet other health and safety requirements, outside of planning legislation.
- 7.23 Taking this into account, whilst the issues raised by Kent Police are relevant, I do not consider, in this instance, that they should lead to refusal of the scheme on crime prevention and safety grounds.

Highways

- 7.24 KCC Highways do not object to the provision of two parking spaces as shown on the plans. These spaces are shown to be within the site and it is envisaged that they would be used infrequently (such as by a minibus bringing a youth group to the site, or an emergency vehicle). Given the sustainable location of the site close to the town centre, I do not consider it would be likely to give rise to any significant or unacceptable highway or parking related issues.
- 7.25 The KCC Rights of Way Officer has commented that provision should be made for a 3 metre path through the site – with the potential that this could form part of a link along the southern side of the creek and into the housing development under consideration at Crown Quay Lane further to the west of the site. The access route through the site, as shown on the plan, would enable such provision in the future.
- 7.26 I consider the highways impacts would be in accordance with policies DM6 and DM7 of the adopted plan, insofar that the site is located in a sustainable central allocation with access to transport choices, and that the limited parking reflects this.

Other Matters

- 7.27 Some objections have been received that the scheme does not take up the opportunity to provide a level / step-free access to the SKLR. Members will be aware that the SKLR is raised above the level of The Wall and Mill Way, and that access is currently via a series of steps to the SKLR. The skate park site does lend itself to provide level access to the SKLR site in the south west corner of the site. I am advised that whilst this may be a matter for discussion between the Council and the SKLR at a later date, that this is not being pursued at present. I appreciate that this offers an opportunity to improve such access. However as this did not form part of the submission at outline stage, nor was it a requirement of the outline permission, I do not consider this can be pursued further under this reserved matters application.
- 7.28 Whilst the site falls within an area liable to flooding and a SSSI consultation zone, as this is a reserved matters application and these issues have been considered at outline stage and found to be acceptable, there is no need to consider these further.

8.0 CONCLUSION

- 8.01 This reserved matters application sets out the detailed design and layout of the public park / skate park facility. Whilst it has been streamlined in comparison to the illustrative plans submitted at outline stage, I am nonetheless satisfied that scheme is acceptable and in accordance with the relevant policies contained within the development plan.

9.0 RECOMMENDATION – GRANT planning permission subject to the following conditions -

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans- GESB002 Rev A, GESB003 1 200 Rev A received on 25/07/17 and drawing C18/SK1 received on 08/02/18.

Reason: To accord with the terms of the application and in the interests of proper planning.

- 2) Notwithstanding the submitted plans and prior to first use of the development hereby permitted, an alternative scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide the following details –
- Details of the size and species of new native planting in the locations between the skate park and internal access road and within the park to the north of the skate facility (to include details of the tree pits required for the planting proposals within existing hard surfaced areas).
 - Details of the location, size and species of new soft landscaping works to the western boundary of the site, to supplement existing landscaping and designed (through species choice) to deter access to this boundary.

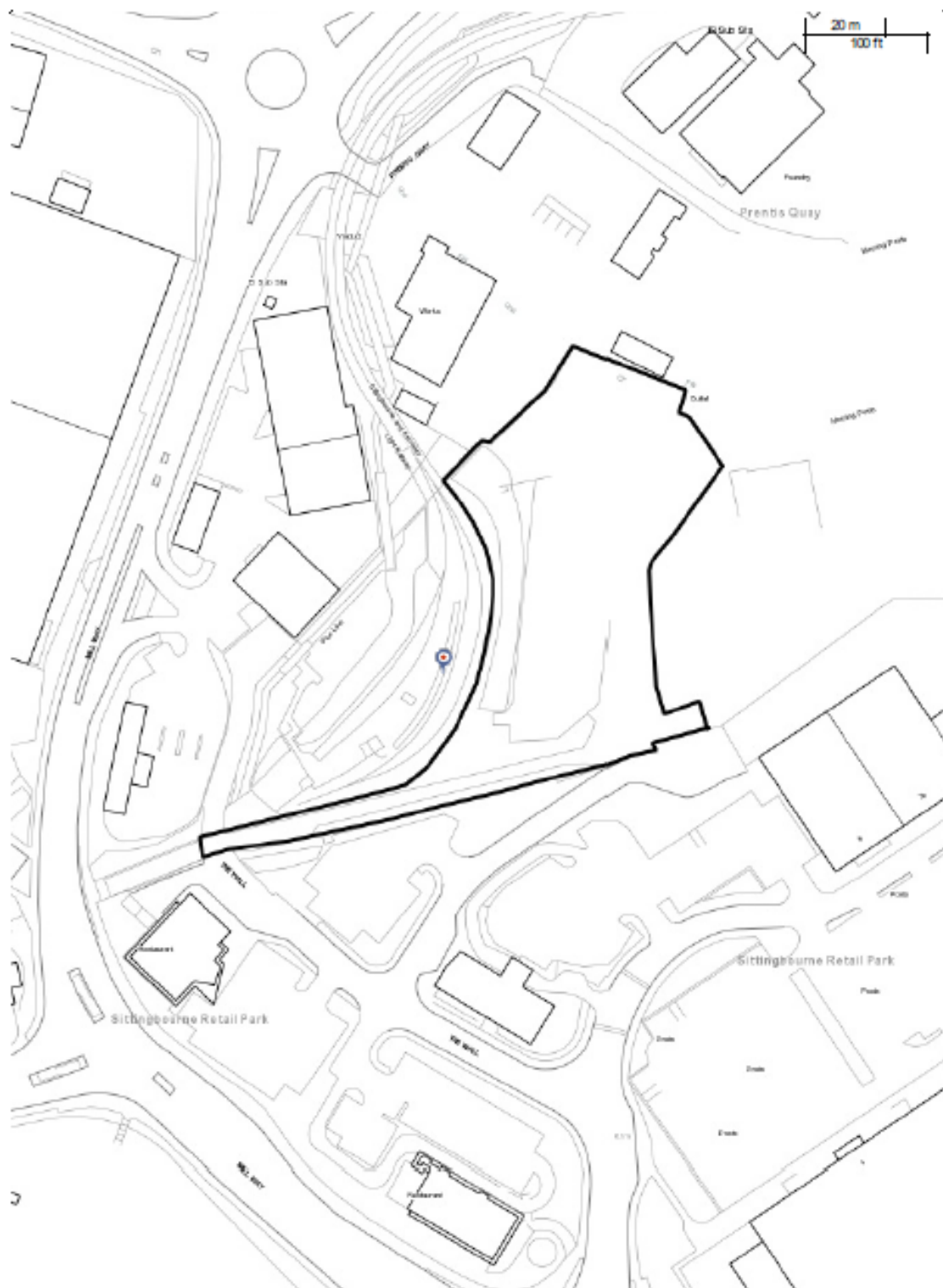
The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development.


- 3) Details of the natural play equipment to be installed within the natural play area shall be submitted to and approved in writing by the Local Planning Authority prior to such installation.

Reason: To ensure a satisfactory appearance to the development.

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



ITEM 2.5 17/503673/REM - Proposed Park and Skate Park, The Wall, Sittingbourne ME10 2GZ
Scale: 1:1250
Printed on: 20/2/2018 at 10:51 AM by AngelaA



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2.6 REFERENCE NO - 17/502338/FULL			
APPLICATION PROPOSAL			
Variation of conditions 2 ,3 ,4 and 5 of planning permission SW/13/0137 Change of use for gypsy and traveller site to incorporate previous site approvals, increase number of pitches, relocate and enlarge communal facility building. Includes parking, lighting, fencing and landscape buffer. Condition 3 - to increase the total number of permanent caravan pitches to 40 with a dayroom on seven of the pitches; each pitch to have not more than one static caravans/mobile homes with space for car parking, and a touring caravan, as amended by drawing 2549/PL/Sk05 Revision D.			
ADDRESS Brotherhood Wood, Gate Hill Dunkirk Faversham Kent ME13 9LN			
RECOMMENDATION – Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
The scheme addresses criticisms of the approved scheme for this site and provides an opportunity to improve the quality of the pitches on the site.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council objection			
WARD Boughton And Courtenay	PARISH/TOWN Dunkirk	COUNCIL	APPLICANT Mr Joseph Robb AGENT Philip Brown Associates
DECISION DUE DATE 22/08/17	PUBLICITY EXPIRY DATE 02/02/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/13/0137	Change of use for gypsy and traveller site to incorporate previous site approvals, increase number of pitches, relocate and enlarge communal facility building. Includes parking, lighting, fencing and landscape buffer.	Approved	16/04/2013
SW/11/1271	The use of land for the stationing of caravans for residential purposes for 7 no. gypsy pitches and 2 no. transit pitches together with the formation of additional hard standing, utility/dayrooms ancillary to that use.	Approved	19/12/2011
SW/11/0163	Application for variation of condition 13 (restriction on storage) of planning permission SW/10/1362.	Approved	04/04/2011
SW/10/1362	The use of land for the stationing of caravans for residential purposes for 4 gypsy pitches (2 single pitches, 1 double pitch) together with the formation of additional hard standing, utility/dayrooms ancillary to that use and the retention of an existing stable block.	Approved	13/12/2010

SW/10/0599	The use of land for the stationing of caravans for residential purposes for 4 gypsy pitches (2 single pitches, 1 double pitch) together with the formation of additional hard standing, utility/dayrooms ancillary to that use and the retention of an existing stable block.	Refused	04/08/2010
SW/07/0950	Change of use for siting two twin residential caravans and two touring caravans, and erection of stables.	Approved	12/10/2007
SW/97/0923	Retention of mobile home	Approved	02/03/1998
SW/86/1053	Renewal of temporary permission SW/81/444 for use of land for fencing yard for making palings stakes hurdles including logging and stacking of pulpwood/timber	Approved	11/11/1986

1.0 RELEVANT SITE HISTORY AND DESCRIPTION

- 1.01 The site is located to the south of the A2 services slip road at Gate Hill. It is screened from all directions by extensive areas of woodland, albeit previous tree cover on the site has been felled, and hard core materials spread across the site, creating a large area of hard standing. The site is not easily visible from the A2, and is screened from the adjacent public footpath by a close boarded fence. Wooded countryside lies to the sides and rear of the site. This site forms part of the Blean Woods and is shown within both an Area of High Landscape Value (Kent Level) and a Local Designated Site of Biodiversity as defined on the proposals map of the Council's 2017 adopted Local Plan.
- 1.02 The site lies close to the A2 Boughton by-pass, with access via The Gate services, which provide local services such as fuel, a shop and a bus stop. It lies on the opposite side of the A2 from the built up area of Dunkirk, which has recently been with provided with a new village hall. This area now has no church or school, both of these having closed in recent years, but it is linked to the wider range of services at Boughton.

The site's planning origins

- 1.03 The application site itself started as a long narrow woodyard, which is now the eastern part of the current application site. Planning permission was granted for this part of the site in 1997 under planning reference SW/97/0923 for the retention of a mobile home. This granted temporary permission for a two year period. The mobile should have been removed from the site by 1999, but it appears that a caravan was still on the site in 2007.
- 1.04 Prior to this, planning permission was granted in 1981 for the original yard area to be used as a fencing yard. This permission was renewed under planning reference SW/86/1053 in 1986, extending the use to 1991. Outline and later detailed permission for a workshop building on the site was approved in 1991, 1994 and 1996.

The site becomes a gypsy and traveller site

- 1.05 More significantly, permanent but personal planning permission for two mobile homes and two touring caravans (arranged as two pitches for gypsies on the original part of the site) was granted in October 2007 (SW/07/0950). This area was, and remains, fully hard surfaced. Members visited the site at this time as part of one of their annual reviews of the Borough. Those occupants have since vacated the site and the current applicant has taken over its occupation.

Expansion of the site to its current dimensions

- 1.05 Application SW/10/0599 sought an increase to three pitches (one double and two single pitches with paddocks) on the then recently felled area to the west and this was considered at the July 2010 meeting. The area of woodland which had then recently been largely felled had not been protected by a Tree Preservation Order (TPO), and this area was proposed mainly as paddocks, but with a small additional area of proposed hardstanding and garden. This felled area had been cleared apart from a few retained trees and a large quantity of material has been brought in to create a level hardcore base which the applicant said he wished to cover in topsoil to create paddocks where he could keep horses.

Members resolved to refuse permission for the following reason;

“The proposal to increase occupation on this site and to expand it into an area including ancient woodland is likely to have a detrimental impact on its character, its surface water drainage characteristics, in a manner harmful to the countryside, which the Council consider would be premature to approve in the light of forthcoming Government guidance on provision of gypsy sites. The proposal is therefore contrary to policies E1, E6, E9, E12, E19, and H4 of the Swale Borough Local Plan 2008.”

- 1.06 A further identical application SW/10/1362 was then submitted in an attempt to address at least some of the Council’s reason. The area covered by proposed caravan pitches then did not enlarge the area that the 2007 permission extended to.
- 1.07 That application was approved in December 2010, and an application (SW/11/0163) to vary condition 13 due to its unintended ambiguity was approved in April 2011. Conditional details for the December permission were approved in March 2011.
- 1.08 In December 2011 the applicant was granted a further planning permission SW/11/1271 for seven additional single pitches (each with day room and space for a touring caravan) plus two transit pitches on the formerly approved paddock area. This permission was commenced by the laying out of the approved pitch boundaries and stationing of caravans on this wider area, but the planning conditions required to be complied with before commencement were not dealt with.
- 1.09 These permissions (up to December 2011) provided for a combined total of ten (10) permanent pitches plus two (2) transit pitches and formed the starting point for consideration of a subsequent 2013 application which sought to establish a brand new unified permission across the entire site, creating less ambiguity about which conditions applied where, and dealing with the outstanding conditions issue. It was also an attempt to negate the need for enforcement action relating to the various on-going breaches of conditions.

The 2013 current planning permission

- 1.10 The 2013 proposal (SW/13/0137) was to re-plan three (3) of the approved larger pitches and to use vacant land within the existing site boundaries at the rear of the site to create 22 smaller 150sq m single pitches, none of which would have day room or space for a second (touring) caravan. Instead the erection of a new permanent community building featuring toilets, showers, two large recreation rooms and an office to serve the site occupants was approved. Although the number of pitches rose by a net 19 pitches, no overall enlargement of the area of the site was approved.
- 1.11 The remainder of the site was to stay as seven (7) approved large single pitches, each with a day room and space for a touring caravan, as already approved in December 2011. The already approved two (2) transit pitches for three caravans each at the front end of the site remained unaffected by these proposals.
- 1.12 The overall total number of approved permanent pitches (excluding the two (2) retained transit pitches) rose from 10 (with up to 21 caravans) up to 29 pitches with up to 36 caravans. The approved overall total maximum of caravans at any one time rose from 27 to 42, including the transit pitches.
- 1.13 The new community building was to be 22.5m by 9.8m with a ridge height of 6.7m. It would be a barn like design with timber windows, and clad in dark stained weatherboard under a slate roof. This community building was originally approved towards the rear of the site near the new smaller pitches, but subsequently its re-siting nearer the centre of the site was approved as a non-material amendment. The building has been erected in the latter approved position.
- 1.14 The 2013 application was supported by a Design, Access and Planning Statement which explained that;
- *Each new pitch would have a storage shed, drying facilities, amenity space and one parking space.*
 - *The communal building was to provide further toilet and shower facilities for separate male, female and disabled hygiene as well as communal kitchen and recreation rooms, providing space for recreation, games, teaching, training, prayer and group activities.*
 - *It was designed to have design features typical of agricultural and village buildings.*
 - *The site is not at risk from flooding, nor would the development concentrate surface water run-off. Foul drainage was to be to an existing mains connection.*
 - *The site is well screened from public views by surrounding woodland and new chestnut post and rail fencing and an additional vegetation buffer in the form of laurel bushes will be erected/planted around the woodland edges of the site.*
 - *The site layout had been designed in accordance with Government advice and each pitch was to be fenced. .*
 - *Site access remained as existing together with a new emergency access gate. Adequate parking was provided for.*
 - *The proposal was in line with national and local policy, and had been the subject of pre-application consultation with officers, the Parish Council and gypsy liaison officers.*
 - *Swale Borough Council had undertaken a gypsy and traveller need assessment which shows a significant shortfall in provision, which had resulted in a spread of illegal sites and temporary permissions being granted, which are not ideal in planning terms or in relation to the settled community.*

- *This site is an existing approved site. It is largely uncontroversial and well screened. Allowing an increase in its provision would meet a significant need and help to bring controls against illegal sites more quickly to the benefit of the settled community.*
- *The site was to be managed by the applicant to provide for the needs of the gypsy and traveller community, enabling the settled community to benefit from a site more capable of good practice than any publicly provided site, and at no cost to the public purse.*

1.15 This application was approved in April 2013 and forms the current planning permission for the site. There are, however, clear discrepancies on the ground between what was approved and what has been developed. There have consistently been more than 36 caravans on the site; the transit pitches have not been provided; and the layout has not been properly implemented. Plots are not fenced and there have been more recent allegations that the site is occupied by eastern European workers rather than gypsies or travellers. Enforcement action in relation to matters of site layout and caravan numbers is currently pending the determination of this application, but recent investigations have confirmed allegations of non-compliance with the occupancy condition (6), use of the communal building for residential purposes (contrary to condition (15)), and an unauthorised expansion of the site at its south-western corner. These matters are currently subject to on-going investigation and/or enforcement action.

2.0 PROPOSAL

2.01 The 2013 planning permission (see above) contains conditions restricting the development.

- Condition (2) requires the development to be carried out in accordance with the approved drawings.
- Condition (3) limits the development to 29 pitches (36 caravans) plus two transit pitches (six caravans).
- Condition (4) limits the occupation of transit pitches to three months at a time.
- Condition (5) requires permanent caravans to be sited as shown on the approved drawings.
- Condition (6) restricts occupancy of the site only to gypsies and travellers as defined by the PPTS.
- Condition (7) requires utility/day rooms to be constructed in approved materials.

The current application responds to enforcement investigations into possible breaches of conditions (2), (3) and (5) and is submitted in an attempt to secure approval for a form of layout that the applicant says is practical, as he says that he is unable to complete the 2013 approval in compliance with the approved site layout due at least in part to difficulties in achieving drainage to the approved layout.

2.02 As such, the applicant recognises that the development so far does not accord with the 2013 planning permission and is liable to enforcement action. The application does not seek to vary the gypsy and traveller occupancy condition, but is described as to vary conditions to reflect the proposal to re-arrange the site layout whilst maximising the capacity of the site to provide pitches with adequate dimensions and facilities. The applicant's explanatory letter is attached as Appendix 1 to this report. In this letter the reference to condition (7) being unnecessary refers to the fact that, as first submitted, the current application proposed that the site be developed without any day rooms. This has now been amended on revised drawings. This letter remains the

applicant's only written support for the application as, despite my suggestion to the applicant that he might wish to consider responding in writing to the objections referred to below, I have not received any such response.

- 2.03 The application as first submitted suggested 47 permanent single pitches, with six further caravans on two transit pitches (53 caravans in total). It was accompanied by a crudely drawn plan essentially showing the site as it has been laid out thus far. To that extent the application (as first submitted) could have been considered retrospective.
- 2.04 The applicant suggests that the provision of a substantial communal building renders the provision of individual day rooms redundant. He then suggests that as the Council has already (at time of submission of the application) already approved the vast majority of pitches required up until 2031 via planning approvals, this indicates a higher level of need than originally thought, supporting his case to expand this site's capacity. He suggests that this application will go some way to meeting a need for more sites in a manner consistent with Local Plan policy.
- 2.05 Despite the applicant's own views, I had significant reservations about the application as originally submitted. These can best be seen in the published comments from a senior planner in the Council's Spatial Planning Team attached at Appendix 2. In these comments the senior planner begins by outlining the planning history of the site, and suggests why it was right to approve the 2013 application.
- 2.06 These comments were provided to the applicant to provide him the opportunity to address them. The applicant was originally reluctant to amend the scheme, but Officers made it clear that as submitted, the application did not retain the quality or variety of pitches that the 2013 approved scheme did, and that it would not be acceptable. The applicant then engaged the services of a local architect to properly survey the site and to tackle the concerns raised. This was done in a series of amended drawings, some of which the applicant shared with the Parish Council before I formally re-consulted the Parish Council in October 2017.
- 2.07 The application as it now stands is for seven large double pitches (the same number as in the 2013 planning permission) at the southern (rearmost) part of the site and 33 smaller single pitches. The larger pitches all contain a mobile home, a large dayroom (9.7m x 3.0m or 9.7m x 4.5m), washing line, space for a touring caravan, and space to park at least two vehicles. Some single pitches (pitches 10 to 14) also have smaller dayrooms (5.4m x 1.6m). The smaller pitches would all have space for a mobile home, storage shed, washing line, touring caravan and parking for at least one car. These smaller pitches would all be of a higher standard than the 22 single pitches approved in the 2013 planning permission by virtue of size and the capacity to station a touring caravan as well as a mobile home.
- 2.08 As the application now stands, it is not for development that has already been undertaken and is therefore not retrospective. It proposes a new future for the site, and has been designed with Officer advice in mind. To this extent Members should be cautious in reading objections to the application below, as many of the original criticisms of the application no longer apply.
- 2.09 The 2013 approved communal building has been erected (albeit there are concerns about its current use) and does not form part of this application. What is now due for determination is the proposed site layout including the number of caravans, which rises from a maximum of 42 (36 caravans on 29 pitches plus seven caravans on seven transit pitches) to 87 (80 caravans on 40 pitches plus seven caravans on seven transit pitches). This increase comprises an increase in static mobile homes from 29

to 40, but with an increase in capacity for touring caravans from 7 to 40 on the permanent pitches.

- 2.10 All this is proposed without extending the site into the surrounding woodland. The approved 2013 layout drawing shows the site measuring 155m x 99m overall at a scale of 1:1250, whereas the current application shows the overall site (according to a recent survey and a drawn at the much larger scale of 1:200) as measuring 150m x 99m. This is the scheme now before the Council.

3.0 PLANNING CONSTRAINTS

Ancient Woodland

Potential Archaeological Importance

Tree Preservation Order Polygon MBC_SBC Reference: 7934/TPO

Description: Poundfall Wood, Brotherhood, Fishpond, Court, Court, South D

4.0 POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

- 4.02 I consider that the following extracts from paragraph 7 are particularly pertinent:

“There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

- 4.03 In relation to rural housing the NPPF (at paragraph 55) states;

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.

4.04 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 109, states;

The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Planning Policy for Traveller Sites (PPTS)

4.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims now are:

“The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.” (para 3 PPTS)

To help achieve this, Government's aims in respect of traveller sites are:

- a. that local planning authorities should make their own assessment of need for the purposes of planning
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites

- c. to encourage local planning authorities to plan for sites over a reasonable timescale
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies
- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)

4.06 In terms of plan making the PPTS advice is that;

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community
- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)

4.07 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

4.08 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the

National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections”

“However, as paragraph 16 [relating to Green Belts] makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.” (para 24 PPTS). I note that the mini paragraph above was added in the 2015 re-issue of PPTS

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS). I note that the word “very” was added to this paragraph in the 2015 re-issue of PPTS.

“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). I note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS. I further note that the Council now has a far more than 5 year supply of sites via its newly adopted Local Plan and past completions and outstanding permissions, which I will refer to below.

Finally, the definition of gypsies and travellers has been amended in the re-issued PPTS to remove the words “or permanently” from after the word “temporarily” in the following definition;

“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 as such.”

The implications for this change in definition has affected the issue with regard to defining need and this matter is the subject to some very recent changes regarding the Council’s emerging Local Plan, which are referred to below.

- 4.9 The Council responded positively and quickly to these changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and originally identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major housing development sites.

DEVELOPMENT PLAN POLICY AND PITCH SUPPLY MATTERS

Bearing Fruits 2031: The Swale Borough Local Plan 2017

- 4.10 Evidence to the Local Plan's Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 4.11 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period is based on a figure of 61 pitches to 2031. At that time 51 permanent pitches had been approved by the Council since the GTAA was commissioned and the remaining pitch supply need to 2031 was just 0.2 pitches per annum. Despite formal objections, the Inspector discounted any concerns about site supply by referring to this very small remaining need (over the full plan period) and adding that the early review of the Plan (required for other reasons) would deal with any concern about the five year supply situation. Since then a further 14 permanent pitches have been approved and site supply (65 permanent pitches since 2012) now exceeds the need estimate accepted by the Local Plan Inspector. The remaining pitch need (at the time of the Local Plan EIP) of less than one pitch per year meant that no formal pitch allocations were needed, and the Inspector concluded that future site provision could reasonably be expected to be catered for via windfall planning applications. Draft Local Plan Policy DM10 was then revised to deal with these windfall applications. Accordingly, a Part 2 Local Plan is not required and the Inspector confirmed that the Council's approach to this matter was well reasoned and pragmatic. She also accepted that the Council's approach would result in a Plan that will be effective and consistent with national policy.
- 4.12 It has recently been suggested (at an appeal hearing on 31 October 2017) that the Local Plan Inspector ordered an early review of the Plan due to concerns over the accuracy or adequacy of the 2013 GTAA. Whilst the Council has commissioned a new GTAA to inform the review of the Plan this is not so, and it is clear from paragraphs 5, 18 to 20, 51 and 95 to 106 of the Local Plan Inspector's final report that it was due to the need to consider strategic highway capacity to meet the Borough's proposed housing targets (not to review the GTAA evidence) that the early review of the Plan was deemed necessary

- 4.13 The Local Plan has now been adopted, and thus the position has been formalised. The key adopted plan policy to deal with windfall planning applications for new sites now is DM 10 (Gypsy and Traveller sites).

Policy DM10 of the adopted Local Plan states:

Part A: Retention of sites for Gypsies and Travellers

Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.

Part B: Gypsy and Traveller sites

The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
 - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
 - b. *where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
 - c. *the proposal is for an extension to, or stationing of, additional caravans at an existing site.*
2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
3. *Can achieve an integrated co-existence between all communities;*
4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*
6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*

12. *Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.*

4.14 Other relevant newly adopted policies now are;

ST3 (The Swale settlement strategy). This seeks to guide development to sustainable locations. In this regard urban centres are preferred with sites in open countryside outside any built-up area and with poorest access to services being least favoured. The policy provides an exception to such strict control where development is supported by national policy, and here PPTS makes it clear that gypsy and traveller sites can be expected in rural areas.

DM24 (Conserving and enhancing valued landscapes). This policy seeks to safeguard areas of landscape significance.

DM28 (Local Designated Site of Biodiversity). This policy seeks to prevent harm to areas recognised for their biodiversity value.

Five year supply position: The latest position of site provision

- 4.15 Of the 61 pitches needed to 2031, and at the time of writing, 65 pitches have already been granted permanent planning permission meaning that the outstanding need for pitches to 2031 has now been met. The Local Plan Inspector considered (June 2017) that on the basis of the past trend of a rapidly rising number of approved permanent sites, any remaining need (at that time) could easily be met from windfall proposals. This has proven to be the case. This indicates that by proper engagement with the Council, appropriate sites can be found in sustainable and acceptable locations in Swale (generally outside of the AONB or other designated area) without an appeal, meaning that there is a high probability of those in need being able to find an acceptable alternative site with minimal delay.
- 4.16 Moreover, whilst the majority of these pitches have already been implemented and occupied (resulting from the retrospective nature of their permission, or arising from them being made permanent after an initial period of temporary permission pending policy formulation) there are a number of fresh planning permissions that have not been implemented and are unquestionably in “supply”. The already implemented supply means that many gypsies and travellers resorting to Swale now have a secure and permanent base in an acceptable and sustainable location. Additional similar provision has also been made which is yet to be implemented. The GTAA’s (revised) full pitch requirement for Swale up to 2031 has already been met, and in practical and physical supply terms the need for sites can be said to be met for the next 14 years. Even if a rather theoretical approach to supply is calculated, the Council has a seven year supply of sites, but that by August 2017 (prior to recent approvals for further permanent pitches) that supply was as much as 11.7 years. Four further permanent pitches have been approved since then and two permanent pitches (with a personal condition) were approved on appeal in February 2018.
- 4.17 In February 2017 in an appeal decision relating to a proposed Gypsy and Traveller site at Bredgar, and based on information presented to the informal hearing as long ago as September 2016, the Inspector accepted that the Council had a five year supply of sites, saying that;

“...in view of the now significantly reduced level of need combined with the reasonably substantial increase in the number of permitted sites, many of which have now been

implemented, overall I consider that that the Council has now demonstrated that it does have a five year supply of deliverable sites. On this basis there is no apparent need for further sites in the short term and in the longer term any outstanding need that might be established would be likely to be dealt with through the provisions of the emerging development plan”.

Thus the position on site supply seemed to be clear. Despite objections to the Council’s analysis of need at the Local Plan examination, Planning Inspectors have confirmed the appropriateness and the success of the Council’s approach to site supply. Arguments relating to uncertainty of acceptance of the Council’s approach to pitch supply put forward in this appeal prior to adoption of the Local Plan were thought to be out of date. However, two recent appeal decisions have turned on the Council’s five year supply being inadequate, partly due to the Inspectors concluding that pitches at Brotherhood Woodyard (the current application site) should not be treated as part of the supply figures.

- 4.18 My view is that these appeal decisions need to be treated with some caution and the first is already subject to legal challenge by the Council. Both decisions discount the pitch supply contribution made by the 2013 planning permission at the current application site due to concerns over site layout and occupancy. I have tried to make this clear that these matters are enforcement issues rather than supply issues. Dunkirk Parish Council themselves share this view. However, two Inspectors have effectively ignored the 2013 planning permission and granted planning permission for sites elsewhere based on the Council’s site supply falling short of 5 years.
- 4.19 Finally, the Government’s Chief Planner announced on 31 August 2015 (the same day PPTS was re-issued) a policy that from that date all applications and appeals that involve intentional unauthorised development this fact can be a material planning consideration.

5.0 LOCAL REPRESENTATIONS

5.01 Swale Footpaths Group has commented;

After studying details of some of the applications I wish to point out that in two cases (17/502338 at Dunkirk and 17/502712 at Hartlip) there are PRowS nearby, but, as far as I can judge, they would not be affected.

- 5.02 A **planning consultant** from the northwest of England who is more usually involved in supporting Gypsy and Traveller proposals has objected to the current application. Initially she wrote:

The Council are well aware of my concerns with this site. On behalf of other clients in Swale I have repeatedly expressed concern at appeals that this site is not operating as a Gypsy -Traveller site and much of what has been granted was never suitable as a Gypsy Traveller residential site. It would appear the Council has approved increased caravan numbers so as to be able to say they have met the need for Gypsy -Traveller pitches in this borough. Yet Swale Council has failed to have proper regard to the suitability of those pitches and whether they were fit for purpose having regard to CLG guidance. Not surprisingly few Gypsy Travellers have chosen to live here.

The Council has repeatedly assured Inspectors that the matter was being investigated and enforcement action would be taken to regularise matters. The Council has relied on this site to refuse other permissions for Gypsy sites in

this district claiming they have met the need. They have persuaded a local plan inspector that they have made sufficient provision.

Kent Police are now able to confirm that what I have been saying is true. If Kent Police are aware from their patrols and investigations that the vast majority of caravans are rented out to migrant workers from all over Europe- why did the enforcement enquiries of the Council not confirm the same?

Ideally this case should be assigned to a different case officer for an impartial appraisal of the site history and enforcement issues.

This is an application to regularise the existing situation. It is an application to retain a large number of static caravans , not pitches. It is not an application for a Gypsy Traveller site. The community building does not remove the necessity for individual day rooms on a Gypsy site. I challenge any one to demonstrate how this arrangement would be acceptable for a residential Gypsy Traveller site. I doubt very much the community building is being used as such. It is woefully lacking in toilets etc to serve this number of residents/ transit pitches.

There may well be merit in retaining the site for low cost rented accommodation for migrant workers. But if the Council want to rely on this site to meet the needs of Gypsy Travellers the applicant should be required to submit a revised plan to show how the site can be laid out to provide

- a) Fewer individual residential pitches each with space for 2 caravans (of which one is a mobile home), individual day rooms and parking for at least 2 vehicles*
- b) A transit area in association with the large communal building.*

I do not take issue with the inclusion of a transit element. There is a pressing need for more transit provision nationally, regionally and in kent. This location is ideal for this use, behind a service station. But the submitted layout fails to indicate the parking spaces for this use and it appears cramped and compromises the amenities of those supposed to live in static caravans arranged around the transit area. This transit use should be next to the communal building on which it relies, not in a separate yard area.

The layout of 47 statics fails to show any parking spaces. There is no proper amenity space for this number of caravans. There are no visitor parking spaces.

The layout as submitted is cramped and over developed resulting in the over development of the site. The occupants of the site are heavily dependent on the private motor car. This is not a location that is easily or readily reached on foot or by bicycle.

It is far from clear how sewerage is dealt with from this site and how it is treated.

The proposed layout for 47 statics is not appropriate for a residential Gypsy Traveller site. It is disrespectful of the cultural needs of Gypsy Travellers and fails to provide appropriate individual pitches which could count towards meeting the need in this district. Far from add to the supply for GT pitches in this district, as I have previously pointed out, approvals granted by this Council for a mobile home park on this site has led to a reduction in the number of residential GT pitches on this site.

Aerial views of the site confirm that it has extended into the woodland beyond the application site.

- 5.03 After the scheme had been amended to take on board advice from Officers to the applicant, **the agent** again wrote in as follows;

"1. When I was checking the Council website for a full copy of the Personal Statement of Mrs Shelly Rouse (which I note has not been uploaded yet extracts have been submitted as part of the Council's appeal statement for another site in the district) I noticed that a new site plan has been submitted. I submitted an objection to the previous proposed layout plan. I should have not been notified of this amended plan and given opportunity to comment. I am unclear as to its status as there does not appear to be any supporting statement to explain this amendment.

2. This application has been made to regularise the existing situation on this site. As Ms Rouse notes, in her personal statement, over the last 7 years there have been a number of applications at this site to 'rectify development carried out with planning consent or to regularise implementation carried out not in accordance with the approved plans' . She states that there has been 'systematic abuse of the planning system' by the applicant. As she also notes 'this has led to numerous enforcement investigations and resources in rectifying unauthorised development'. I am not, however, aware of any formal enforcement action. The Council gives the impression it is willing to tolerate these abuses. The current layout of this site is more akin to the provision for seasonal agricultural workers than it is for a Traveller site.

3. I note that planning permission is now sought to for 40 residential pitches and what appear to be 7 transit plots. It is an improvement on what is currently provided in so far as there is space for statics and tourers and some plots have day rooms. But the layout is unimaginative and provides no sense of community. It is clearly designed to cram as many plots onto the land as possible. None of the plots are large enough for a full sized twin unit caravan. Only 7 of the residential pitches have an individual day room-the design of which is not provided but it looks rather like a portacabin. The remaining 33 plots show only a small static (32 x10ft), touring van, parking space and small storage shed and space for a washing line. They have no amenity buildings contrary to DCLG guidance issued in 2008. Although this guidance has been revoked it has not yet been replaced and is still widely referred to as it is the only government guidance we have. At Para 7.17 the DCLG guidance states that it is essential for an amenity building to be provided on each pitch. The storage sheds are in the 6m separation zone between caravans so will have to be built from non combustible materials. The occupants of these plots will be expected to use the bathroom facilities in the Amenity Hall-which is some trek across the site especially for those with young children. There are no footpaths across the site. Those accessing the facilities in the Amenity Hall will have to follow the roadways around the site. This arrangement is totally contrary to DCLG guidance for Gypsy Traveller sites. As you will be aware, most Traveller do not choose to have or use bathroom facilities in their caravans. These plots will have no where to meet visitors / officials that is not in their caravans. Day rooms provide somewhere to meet and greet visitors where no one is sleeping.

4. According to these submitted plans whole families are expected to live in a small static caravan 32ft x 10ft (9.75m x3.04m) which is less than 30 sq m in

floor space. Even by Traveller standards what is proposed are very small for static caravans. The UN advises a minimum floorspace of 20 sq m per person as an indicator of overcrowding. DCLG guidance published March 2015 on Technical Housing Standards-national described space standards advises as follows for single storey dwellings

1 bed 1 person -39 m²

1bed 2 person-50 m²

2 bed 3 person-61m²

2bed 4 person -70 m²

5. What is proposed here falls well short of recognised standards. By contrast, the Amenity Hall granted by Swale Council to meet the needs of Traveller families on this site is quite absurd. This huge structure offers pathetic bathroom facilities for so many families. It does not even include laundry facilities. I am told by Travellers who have visited the owner that it is anything but an Amenity Hall and question if it is truly available to site residents. The plans show gates on the path from the site -why? I have no idea which 'good practice' guide this was taken from but it is not on published by DCLG or one I am familiar with.

6. As noted above the 2008 DCLG Good Practice Guide for the design of Gypsy and Traveller sites is the only Government guidance we have for Traveller sites and has been followed by those implementing new Council sites. It is acknowledged at para 1.13 that the guidance may not be appropriate for small private site development. But what is proposed at Brotherhood Woodyard is not small scale and regard should therefore be given to this guidance. At para 4.7 it is advised that there is no one ideal size or number of pitches but the experience of managers and residents alike is that a maximum of 15 pitches is 'conducive to providing comfortable environment which is easy to manage' and at para 4.8 the guidance states that ' Sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community. The guidance goes on to state that where a larger site is unavoidable, or where one exists already, the creation of small closes within the site for extended families helps retain a sense of community and defensible space.

7. I have seen nothing in the submissions for this application to support the need for this large site. Kent Police has already confirmed what many have been telling the Council for years that this site is not favoured by Travellers and few (if indeed any) occupy it. Swale Council are aware from the many appeals and applications for small private family sites that most Travellers favour small family sites for no more than 8-10 plots. Swale Council are also aware that other families do not want to live here. Mr Brown ,who submitted this application but does not appear responsible for this amended layout, is reported as stating at appeal (see decision letter PINs ref 3153751-2017 for Greyhound Rd Isle of Sheppey p35 issued 21.2.2017) that Romany descended families would be most unlikely to settle there as it is occupied by Irish Travellers and the Inspector agreed that this was a consideration of significant weight. The DCLG guidance 2008 stresses at para 1.7 that there is no single appropriate design for sites but advises on consultation with prospective residents and states that this is 'a crucial element in getting the design right for any new site, taking into account the needs of residents and the physical characteristic of the site itself'. This site is not a private family site. Like Council sites the owner intends to rent out pitches. There has been no

consultation with intended occupiers but the fact Travellers have not chosen to live here is surely sufficient warning that what is being provided is not what they want.

8. It is my experience that most Gypsy Travellers in the district (and indeed in Kent) are English Romany. Indeed up until 2005 Kent CC agreed that there were no Irish Travellers on any of the council run sites in Kent. I have seen no evidence that there is demand from Irish Travellers in Kent for this large site. The Irish Travellers currently living on the unauthorised site at Spade Lane who I am representing have no intention or desire to live on a site like this or in this location. The site has unattractive access to local facilities. It is reached down an unlit track from a service station where lorry drivers park up. The Irish Travellers at the authorised site at Orchard Park Oak Lane and on the unauthorised plots on Lenham Rd in Headcorn live on a very different sites to what is proposed at Brotherhood Woodyard, with spacious plots, large (usually twin unit) caravans able to accommodate the large families we associate with Irish Travellers, and with their own individual day rooms.

9. There are very few private or Council sites in England with over 40 residential pitches or more. The new site at Coldharbour in Kent as designed by Kent CC was limited to just 26 pitches. The largest site in Kent is, I believe Barnfield Park at Ash with 35 pitches and this is one of the most spacious sites I am aware of with most families living on very generous plots each with their own (small) day room. Elsewhere in the country the largest sites I am aware of are as follows

Wakefield-38 pitches

Holwell Hatfield -39 pitches

Showell Road Wolverhampton-40 pitches

Thistlebrook Greenwich-40 pitches

Peterborough-40 pitches

Cottingley Springs Leeds-41 pitches

Linehouses Stoke-45 pitches

To the best of my knowledge none of these sites include provision for Transit sites. I am aware that some have management issues. Where transit provision is mixed with residential pitches on large sites with rented pitches (eg Honeypot Lane, Darlington) it has not been popular with clients I have represented as they dislike the fact strangers are constantly moving on/ off the site. Mixed residential and transit can work on small private family sites where the family decide who can stop on their land.

10. What is proposed would result in one of the largest sites in the country. I question the wisdom of this. Ms Rouse (formerly of Swale Council) points out in her undated personal statement on this application that she is very experienced in Gypsy Traveller planning issues, is a founding member of the Kent officer Gypsy/ Traveller group and part of an group of local authority officers set up and run by DCLG to review national policy and replace the revoked design guidance. With such experience at Swale-how did we get into this mess? Is Ms Rouse really willing to endorse this application and hold this up as an example of good practice to be shared with other authorities in Kent? I doubt that very much.

11. Not only are the number of pitches unjustified, the layout also fails to comply with published guidance. Contrary to DCLG guidance there are no 'closes' for extended families and little evidence of 'defensible space'. The proposed layout is considered overdeveloped and very cramped. The Council

has previously concluded that the consented layout for this site was at the limit of what would be appropriate for this site. This layout seeks to squeeze yet more onto this site. This is unacceptable for the following reasons

- i) There is no turning head for large vehicles within the site and at the end of the cul de sac runs and no visitor parking spaces-essential for such a large site. I doubt the internal access roads are at least 3.7m wide and the layout is not conducive to a one way system. DCLG guidance recommends internal access roads of 5.5m wide to allow two vehicles to pass. Most of the 'road' junctions are too angular for ease of vehicles turning. For such a large site there should be at least two access points for emergency vehicles. Caravans are sited within 3m of the close boarded perimeter boundaries contrary to DCLG and site licencing guidance. The Fire Authority needs to be consulted to ensure this proposed layout is safe given serious fires on caravan sites. The narrow road width will make it difficult to manoeuvre a static/ touring caravan onto most plots*
- ii) caravans on plots 3, 15/16 and 32-40 are sited so close to the close boarded boundary fence there will be no outlook for occupants of these caravans. You would not expect those in houses to occupy dwellings with no outlook from habitable room windows.*
- iii) the static and touring caravans on plots 2 and 3 are within 6m of each other contrary to site licencing and I seriously doubt there is 6m separation between static caravans on the central plots 2-22 but as there is no scale rule on the plan I can not check measurements with any precision.*
- iv) the proposed day rooms on plot16-10 and 22-23 are small for what is proposed compared with DCLG guidance for residential plots.*
- v) There is no privacy for those on the transit site. Families could occupy these plots for periods of up to 2-3 months. There is no private amenities on these pitches contrary to par 8.28 DCLG guidance. DCLG guidance advises that transit pitches have space for two caravans and two vehicles and private amenities. This is not provided. There is barely room for one caravan and one parking space, let along a works trailer or pickup truck.*
- vi)It is not clear if the green areas are meant to represent grass but most Travellers want low maintenance plots as they are away travelling during summer months. Landscaping should be in communal areas for ease of management not on individual plots. There is no hard standing / decking shown for sitting out areas with caravans. There is no landscaping to break up the site. The play area is poorly sited in an unsafe location close to the entrance with roads to three sides and no footpath links. Would it not be better to site this next to the Amenity Hall or central in the site with good passive surveillance? Some of the landscaping shown on the previous plan for tree and shrub planting have been removed and there is no reference to the grass buffer zone and 10m woodland strip along the SSE boundary. Is this the same sized site?*
- vii) it is unclear why there is a need for a separate site office. As I recall the plans approved by Swale Council for what is now aptly referred to as the Amenity Hall included provision for several offices on the first floor.*
- viii) I can see no provision for foul sewerage. It is not known where any treatment plant is located or what access exists for its maintenance.*
- ix) I can see no provision for communal bin storage*
- x) it is not clear how (if at all) plots will be separated/ demarcated from each other to provide privacy and security and how caravans will be manoeuvred onto plots if they are fenced off given the narrowness and constraint of internal access roads.*
- xi) the proximity and overhang of trees in the surrounding woodland is not indicated.*

Xii) I note that there are gates in the far corner to access the cleared area in the adjoining woodland-why? What is proposed here. This is not part of the land edged red yet appears to have been clear felled fairly recently.

12. As stated previously consented layout was not appropriate for a residential Gypsy Traveller site. It failed to respect the cultural needs of Gypsy Travellers and failed to provide appropriate individual pitches which could count towards meeting the need in this district. The site is overdeveloped. The proposed layout is unattractive. It offers little/ no privacy. This is not what Gypsy Travellers want and it is not typical of other applications made in this district. There is no justification for this layout and few if any Travellers would choose to occupy this site. It would reflect badly on Swale Council if this were to be permitted. Mistakes have been made in the past. Permission has been granted for more pitches on this site with the sole purpose of meeting the need in this district and with no record to published guidance or the preferences of Travellers. It was clear from the start that the owner had no intention of providing for Travellers and the plans reflect this. This has now backfired on the Council as the layout is not fit for purposes and does not even meet minimal space standards for dwellings in England let alone the UN. The absence of enforcement action is very telling. It would appear the Council is unwilling to admit its mistakes because it has relied too much on this site to meet need targets in this district and justify refusal of other applications. This can not be right. There is a need for more pitches in Swale but it is not a case of 'anything will do'. Sites must be fit for purpose. As the 2008 DCLG guidance states at para 1.1

'The Government believes that everyone should have the opportunity of a decent home. Decent homes are key element of any thriving, sustainable community, This is true for the settled and Gypsy and Traveller communities alike'

13. Swale Council now has an opportunity to correct previous errors. There is no realistic fall back position. Previous consented permissions for this site are clearly unworkable and have little/ no prospect of being developed. This revised layout should be refused. If this site is to be relied on to meet the needs of Travellers in Swale the layout should comply as closely as possible to published guidance”

- 5.04 After the scheme had been amended to take on board further advice from Officers to the applicant, **the agent** again wrote in as follows;

“Once again the Council has published a revised layout plan and failed to notify myself and advised me of the opportunity to comment. If it were not for Dunkirk PC who informed me of this revised plan at a recent appeal I would not have known about this. I am most concerned that the Council is failing to keep interested parties advised of developments. This is not good practice.

I stand by my previous comments and concern over the failure of Swale Council to take proper enforcement action to ensure the permission granted is implemented and stop further degradation of the surrounding woodland.

I note that consent is now sought for 7 pitches with a static, tourer and day room larger than the static. The day room design looks just like a twin unit chalet. It is odd to have a day room larger than the main living unit. It is supposed to

*be ancillary/ subordinate to the main caravans
6 pitches with a static , tourer and smaller day room
27 pitches with a static, tourer, shed by no utility block
7 transit pitches*

I still maintain the site would be overdeveloped and there is no need or demand for what is sought.

The occupiers of 34 pitches would be reliant on the minimal bathroom facilities approved in the so called communal hall. This is unrealistic. This is not a holiday caravan site. The families living in 27 pitches would be expected to cross the site for all their bathroom facilities 24/7.

Ms Rouse (previous council officer) was critical of recent applications. She confirmed that they failed to comply with nationally accepted layouts for Gypsy Travellers.

I have no objection to the transit provision. There is a pressing need for more transit provision for Travellers and this site is in a good location-close to the channel ports, off a main road and behind roadside services.

At appeal the Council has justified previous approvals on this site claiming that these applications were made by a Traveller who must know what Travellers want. But in reality the Council know that the owner never intended this site for Travellers. In 2014 an agent for the owner contacted the Council to see if caravans on the site could be leased to accommodate workers from abroad. By all accounts that I have heard and seen this is what has happened. Yet four years later still no enforcement action has been taken. Why has the Council been so unwilling to regulate this site? By all accounts (and aerial photos confirm this) the woodland surrounding the site continues to be removed.

At appeal the Council has been told by other Travellers that they do not want to relocate to this site and no one seems to know of any Travellers occupying the site other than the owner and his close family.

Kent Police have confirmed that they are of the view most caravans on this site are not occupied by Gypsy Travellers.

At a Planning Appeal on 23 January 2018 we were told that the Police had raided the site that morning. Later that Council officials confirmed that all caravans (in excess of 40) were found to accommodate migrant workers.

This does not support the owner/ applicant's claims that the site is needed for Gypsy Travellers.

*If, however, the owner/ applicant is still intent on seeking consent for more caravans for a larger Gypsy-Traveller site than that already approved, perhaps the obvious thing to do is ask him to justify why he thinks that need exists by providing details (that can be verified) of -who would want to live here
-their names and details of where they are currently living, why they want to live here
-establish how many Gypsy Traveller families currently living in Swale want to relocate to this site
-establish what the local need is for a site such as this.*

Alternatively, perhaps the Council should grant permission for the existing need for low cost accommodation for migrant workers as there would appear to be a need for such accommodation and it might be beneficial if a properly regulated site is made available.”

- 5.05 Members should note that the references here to an agent for the applicant asking about accommodating foreign workers is incorrect. That agent was not calling on behalf of the owner, but was a separate business which is involved in hiring foreign workers. They were told at the time that the site was only authorised for gypsies and travellers, and that this was not likely to change.

6.0 CONSULTATIONS

6.01 Dunkirk Parish Council objects to this application.

At the time the application was originally submitted they said (with their **emboldening** and *italics*);

“It should be noted that the Council has a five year supply of deliverable pitches and therefore is not a consideration that weighs in favour of the grant of permission and as such should be afforded no weight in the planning balance.

The applicant has knowingly and intentionally undertaken this development without planning permission.

In these circumstances the Government’s position is set out in the Statement accompanying the Chief Planners letter of 31 August 2015 which states inter alia:

PPTS 2015. ‘Intentional unauthorised development’ becomes a material consideration in relation to applications and appeals received after 31 August 2015.

This, like the previous application SW/13/0137, is retrospective. Unbelievably, there had been a ‘creep’ in numbers **before** the decision notice was issued (The decision was issued on 16th April 2013) and the table below shows how the caravan count has been increased. This data is taken from the SBC bi-annual G&T caravan count.

Jan 2013 -31, July 2013- 31, Jan 2014-32, July 2014-36, Jan 2015-43, July 2015-43, Jan 2016-53, July 2016-55, Jan 2017-55

It is now over four years since the site was granted a maximum 29 mobiles; a huge increase from the eleven in the previous consent(s).

The site currently still does not have a site licence due to the non-compliance with the conditions set with the previous application SW/13/0137.

The SBC housing manager has told us: *‘The site has been provided with a draft licence for consultation which we are again chasing. As we are currently looking at this site, but I believe the planning matters need to be resolved first’.*

We must point out that, with one exception, we have objected to all of the planning applications for this site since the first consent for two mobiles was granted in October 2007.

This exception was in 2011 as our comment on the change of conditions after Swale had granted consent for Application SW/10/1362. By this time a large number of trees had been felled to provide an area for keeping and exercising horses. The lawfulness of this was never properly resolved by The Forestry Commission as far as we are aware.

However, faced with this irreversible damage to the ancient woodland Dunkirk Parish Council decided to support the amendment on the grounds that no further development would be permitted and that the site boundaries were to remain unchanged.

Since then the applicant has repeatedly increased the number of residential caravans on the site, beyond the number granted by any of the permissions. This has led to a series of retrospective applications to change conditions, all of which we have objected to.

In our view it appears the applicant works on pursuing an infinite war of attrition, slowly building then getting retrospective permission, placing himself in the **'too difficult to deal with'** box.

We have referred the site to the Enforcement Team on a number of occasions as we were well aware the number of mobile homes on the site clearly exceeded the number permitted. This application is another attempt to make lawful a situation which has been a deliberate breach of consent, and further change of use by the applicant.

There has been 3 PCN's issued, as far as we are aware, but there has been no action on these. We still find ourselves defending against yet another retrospective application.

It is our understanding that the PCN has stated everyone on the site is of 'Irish gypsy status' and that the enforcement team has been unable to independently verify or contest this. We therefore note Kent Police have stated:

"My understanding is the original application for this site was based upon the static caravans being used for Irish Traveller/Romany/Roma Gypsy residents. As part of my patrols and conversations with Mr Robb, it is clear the vast majority of these dwellings are being rented out to migrant workers from all over Europe. As there are already 53 static caravans on the site contravening the original application, it appears clear that two of the original conditions are being ignored. . . ."

This, in itself, is surely a sufficient breach of planning to refuse the application and enforce against the site for a return to the granted consent.

Other considerations:

*'In exceptional cases, where a local planning authority is burdened by a large-scale unauthorised site that has significantly increased their need, and their area is subject to strict and special planning constraints, then **there is no assumption** that the local planning authority is required to plan to meet their traveller site needs in full.'* (PPTS 12)

'When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community'.(PPTS 14)

'Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise'. (PPTS 22)

'Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.' (PPTS 25)

'When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land*
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children*
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community'. (PPTS 26)*

It should also be noted that several appeals have rejected this site as part of the G&T allocation as the site is Irish. English gypsies have stated they could not live on this Irish (cash) site and inspectors have ruled against Swale's allocations which would appear to be a racial decision.

Specifically, appeal decisions (3153747, 3153750 and 3153751) in the last few months that have all mentioned Brotherhood Wood as possible sites for gypsies to re-locate to. However, in each case they successfully argued that as English gypsies they could not live on an Irish site.

The applicant makes much of the local provision but in actual fact this would not be available to the majority of G&T who wish to become resident in Swale.

There would appear to be no good reasons to support this increase on the basis that it would enhance the Borough's allocations and 5 year supply of pitches - clearly it will not.

Quote from officer in relation to another site.

The Council is required to objectively assess need within the Borough. It has done so through the GTAA and its subsequent revision. The Council is then required to provide a five year supply. The Local Plan Inspector has considered this, and agreed in her interim findings that given the substantial number of pitches granted permanent planning permission since the GTAA was commissioned, and thus the very small remaining need for pitches within the Borough, the provision of such a supply through site allocations is unnecessary and the additional very small number of pitches required to meet the assessed level of need can be achieved through windfall sites. That there are sites with temporary permissions only is not indicative of an

increased level of need, it is indicative of demand. The two are quite separate, and the Council is not required, whether in relation to gypsy/traveller pitches, or conventional housing, to meet demand.

This is particularly relevant as we believe that demand on this site is for migrant workers; that this application should be refused and enforcement action taken to reduce the numbers of mobiles to the number on the decision notice.

After the previous application (SW/13/0137) was approved, Dunkirk Parish Council asked for an explanation on a number of matters.

We had concerns, as did Kent Police over the number and density of pitches. This current application ignores all best advice. Previously the case officer stated:

*'Over that size, a clear preference from the local gypsy and traveler community is suggested as necessary. This application is from a member of that community, and the layout is broken up into a series of closes which the guidance suggests. The Parish Council and Kent Police have both pointed out the fact that the number of pitches here exceeds the figure of 15 **but they do not point to any harm arising from the proposed layout**'.*

This time we list the perceived harm:

Difficulties in controlling the site.

Siting caravans this closely together puts social pressure on the residents. When people do not have their own space friction will occur.

Sites in rural or semi-rural settings, should not dominate the nearest settled community.

Without green spaces and play areas children would be forced to play indoors.

We would submit that if the occupants are G&T they would not have sufficient room for their lifestyle.

There have been arrests on the site and the extremely high density will exacerbate these problems. We believe the arrested people were not gypsies, but of Eastern European origin.

The extract below is on design and layout, to which SBC replied:

*. the Parish Council has been concerned that the scheme fails to meet each and every one of the recommendations in the DCLG Good Practice Guide, I can assure you that this advice was accorded great weight, but as the report does highlight it is not expected that every single recommendation will be met on every site. Furthermore, the recommended maximum number of 15 pitches is expressly caveated with the proviso that this figure should only be exceeded where there is a clear preference **from the local gypsy and traveller community**.*

From DM10

Gypsies are defined by their lifestyle -the applicants must have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);

The layout of the proposed site shows 47 mobile homes and no space for touring caravans, amenity blocks or play areas.

Whilst we accept that not ALL of the PPTS guidance needs to be built into the layout, we would expect - for the well being of the residents - that at least SOME should be included.

The proposed layout could not be used by gypsies and travellers. They have nowhere for a touring caravan and therefore, by definition, they cannot be considered to be gypsies OR travellers.

Friends, Families and Travellers Website quotes Government Policy:

Changing the definition of Gypsy or Traveller for Planning. The new definition is:

"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 . . ."

" When PPTS refers to 'persons of a nomadic habit of life' it means travelling for an economic purpose.

What's changed?

It used to say that a Gypsy or Traveller could stop travelling permanently due to ill-health or old age and still meet the planning definition.

The Government has now removed this part of the definition".

With the considerable extra number of caravans in this new (retrospective) application we feel it is necessary to be assured by SBC that they have verified, and have had proved to them, the ethnicity of all residents on the site. The owner might well meet the G&T criteria but this must be clear as it is known that most are migrant workers. Recent arrests by Kent Police were of foreign nationals.

Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;

This would be a development as large as the proposed 77 or 49 houses at London Road; one has been refused and we await the outcome on the second one. The scale of all of them is out of keeping, in the countryside Special Landscape Area (Kent Level) and unsustainable when compared to NPPF.

Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;

Currently, some 30 incidents have been lodged with the environment agency.

Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;

None of these criteria are met by the proposal.

We therefore conclude that the site is overdeveloped, with cause harm to the residents, is contrary to the Local Plan 2008, the emerging plan Bearing Fruits 2031, NPPF and PPTS.

Dunkirk Parish Council, unanimously recommend refusal.”

- 6.02 After the scheme had been amended to take on board advice from Officers to the applicant, **the Parish Council** again wrote in as follows (again with their **boldening** and *italics*);

“Dunkirk Parish Council (DPC) objects to the amended drawing for this application and requests that it is refused.

The applicant has knowingly and intentionally undertaken this development without planning permission and without due regard of the law.

This application must be determined with reference to Bearing Fruits 2031: The Swale Borough Local Plan Adoption version, NPPF and ministerial notes.

Italic text is policy documentation or quotation.

Bearing Fruits 2031 adopted local plan.

Use of Policy ST3 for Gypsy and Traveller provision.

Policy ST3 will be read in conjunction with Policy DM 10 when considering planning applications. It will, however, be flexible in terms of recognising that there may be specific business or personal requirements that may need to be taken into account.

Policy ST 3

The Swale settlement strategy

By use of previously developed land within defined built up area boundaries and on sites allocated by the Local Plan, development proposals will be permitted in accordance with the following settlement strategy:

1., 2., 3., and 4.and [specifically]:

*5. At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, **development will not be permitted, unless supported by national planning policy** and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.*

Please see NPPF section.

This gives significant weight against the application.

Policy DM 10

Gypsy and Traveller sites

Part A: Retention of sites for Gypsies and Travellers

Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.

Kent Police states that many residents are not Irish Gypsies. This brings into dispute any information on the PCN, and, if found to be untrue, this would be a criminal offence.

Mrs. Shelley Rouse (SBC Senior Planning Policy Officer and the lead officer for Gypsy & Traveller policy) finds the application specifically in conflict with the following parts of DM10:

3. **Can achieve an integrated co-existence between all communities;**
 4. **Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;**
 5. **Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;**
 6. **Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;**
 7. **Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;**
 8. **Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;**
- "The proposal would not, in my opinion, meet the requirements of Policy DM10".**

Policy DM 24

Conserving and enhancing valued landscapes

The value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed.

Two thirds of the current application site is on land cleared of trees with TPO's already attached. The applicant was advised on 13th July 2010 by Tree Preservation Order 6 2010 (SBC ref CS/TPO/6 2010).

Swale Borough Council has been derelict in its duties by not pursuing and prosecuting the cutting and removal of trees. SBC granted SW/13/0137 in full knowledge of this when agreeing a maximum of 29 mobiles.

TPO's have been again added to Brotherhood Wood and other attached Woods recently and this is where the side extension and the 1.2 hectares (3 acres) of trees have recently been felled.

This gives significant weight against the application.

NPPF.

The courts have held that, where a proposed scheme conflicts with the development plan, the starting point for analysis should not be that there is a presumption in favour of development as expected in paragraph 14 of the Framework. **Rather, the decision maker's starting point should be that such a scheme would not be sustainable development.**

Therefore we submit that Paragraph 14 of NPPF is not engaged and there is NO presumption in favour of development as Swale has a recently adopted Plan and 11.7 years supply of pitches. This was explained to full council in September 2017 by Cllr. Lewin.

This gives significant weight against the application and it should be refused.

Ministerial Briefings.

The Government's position is set out in the Statement accompanying the Chief Planners letter of 31 August 2015 which states inter alia:

'Intentional unauthorised development' becomes a material consideration in relation to applications and appeals received after 31 August 2015.

This gives significant weight against the application and it should be refused.

Overall, the proposed development is unsustainable on grounds of ST3 and DM10, DM24, DM28 and NPPF plus the ministerial statement

On the grounds above the application could, and should, be refused.

These are additional objections from DPC and should be read with the Parish Council's previous note.

Since this application was accepted by MK Planning on the 2nd May 2017, two different site layouts have been sent to us. One was with the application, a second was given to DPC by the applicant but never appeared on line and then a third, the version now 'on line' was accepted by MK Planning on 17th October 2017.

The only Planning Statement submitted was applicable to the original drawings from May 2017; there is no Planning Statement to accompany the November site layout plan.

The site location plan does not:

Show application site boundaries and all land necessary to carry out the proposed development i.e. land required for access to the site from the road, outlined in red AND a blue line should be drawn around any other land owned by the applicant that is close to or adjacent to the property.

*This is important as an area approximately 63metres by 30metres, on the western end of the approved site has also been cleared of trees (all of which were under TPOs) and given a flat surface with fencing enclosing it contiguous with the existing rectangular site

It is also clear that the site measurements change.

In 2013 the site was 140 x 90m with a 5-10m 'buffer' on 3 sides.

The original 2017 site was 140 x 90m with a 5-10m 'buffer' on 3 sides.

The latest drawing is 149 x 98m without a 'buffer'.

There is also a gate shown on the plan that leads west towards the 63x30metre hardstanding that currently also has static caravans in place.

The new site layout diagram for October 2017 not only does not show this extra unauthorised extension (on land cleared with TPO trees on it) at the south west corner.

Unfortunately, outside the boundary, as can be seen on Google Earth, trees have been cut that someone MIGHT describe as a 'buffer' over and above the site dimensions.

These trees are also covered by TPO's and the applicant was advised of this under SBC seal in July 2010.

* Please note these 'extra' bits should not be confused with the 1.2 hectares of TPO trees also cut down to the west of the site.

DPC queried this with the case officer who replied that the drawing submitted did not have any further documentation with it and nothing else was to be expected from the applicant's agent. DPC find it difficult to understand how a new layout drawing of the site can be accepted without any additional explanatory documentation from the applicant.

The original D&A states 47 static and 6 transit caravans.

The latest plan shows 40 'pitches', each with a day room the same size as a static, and SEVEN transit caravan pitches. The D&A states the statics do not need dayrooms (as you might expect when looking at PPTS guidance) as there is a large two storey community building. This has not been completed to the 2013 drawings and there are only a few toilets for the whole site, and occupants would need to use them overnight and walk across the site alone.

DPC would quote an online comment from Mrs. Heine's objection:

"The community building does not remove the necessity for individual day rooms on a Gypsy site. I challenge any one to demonstrate how this arrangement would be acceptable for a residential Gypsy Traveller site. I doubt very much the community building is being used as such. It is woefully lacking in toilets etc. to serve this number of residents/ transit pitches".

Every static is shown as 32' x 10'. Statics of this size would be two bedrooms, clearly insufficient for most family needs. Research would suggest 4 people only - Two adults and two same sex children.

Shelley Rouse, whilst working for SBC, has written a report pointing out the problems as she sees them:

"The current consent (SW/13/0137) provides an appropriate balance between enabling a variety of accommodation to be catered for, and making best use of available space. In my opinion, the consented layout is at the limit of what is permissible and appropriate in terms of the number of smaller size single pitches. The number of single small size pitches consented, to my mind, is balanced by the variety of other larger pitches which have their own amenity buildings, sufficient transit pitches and a new modern communal building.

Clearly this is overdevelopment and should be refused.

The applicant has knowingly and intentionally undertaken this development without planning permission. This, therefore, like the previous application SW/13/0137, is retrospective.

The 2013 consent was for 29 static with currently 53 - 55 on site (SBC count). It's ironic that there were 31 caravans on the site BEFORE the decision notice for 29 was issued, and these have increased as shown in the table below. This data is taken from the SBC bi-annual G&T caravan count.

Jan 2013 -31, July 2013- 31, Jan 2014-32, July 2014-36, Jan 2015-43, July 2015-43, Jan 2016-53, July 2016-55, Jan 2017-55

DPC would refer the Planning Committee to the appeal decision APP/K3605/W/16/3162449:

The Paddock, Common Lane, Claygate. KT10 0HY.

This is a case in many ways similar to the site at Brotherhood Wood. This involved a series of overdevelopment's beyond existing consent with subsequent retrospective application in an attempt to make the unlawful overdevelopment compliant.

The appeal was dismissed with significant weight being afforded to the intentional unauthorised development, and this was in the face of significant harm being afforded to wellbeing of children. That is how seriously the inspector calculated the harm of intentional unauthorised development.

This should carry significant weight against the application and it should be refused.

The site currently still does not have a site licence due to the non-compliance with the conditions set with the previous application SW/13/0137.

It is now over four years since the site was granted for a maximum 29 mobiles; a huge increase from the eleven in the previous consent(s).

There have been a series of developments beyond the existing consents, none of which have attracted any sort of enforcement over the last few years despite our complaints to Swale.

SBC housing manager has told us: *'The site has been provided with a draft licence for consultation which we are again chasing. As we are currently looking at this site, but I believe the planning matters need to be resolved first'*.

DPC cannot accept that granting consent on this application with different and more carefully worded conditions is the way forward. There has been consistent and persistent overdevelopment of the site with the number of vans, as counted every six months by Swale, always exceeding the number permitted. This has not resulted in any enforcement action.

DPC find it hard to believe that any new conditions will make it any easier for Swale to act in the future when they have failed to do so for the last four years. We also find it hard to understand that this site is, and always has been, considered to be for Irish travellers and this fact has been cited in other planning applications within Swale yet the presence of non-Irish residents has been known to enforcement for years with no action taken.

In our view it appears the applicant works on pursuing an infinite war of attrition, slowly building then getting retrospective permission, placing himself in the **'too difficult to deal with'** box.

DPC has referred the site to the Enforcement Team on a number of occasions as we were well aware the number of mobile homes on the site clearly exceeded the number permitted. This application is another attempt to make lawful a situation which has been a deliberate breach of consent, and further change of use by the applicant.

There have been 3 PCN's issued, as far as we are aware. We have been told that some have not been returned (an offence) but there has been no action on this. We have been told that one states that all occupants of the site are Irish Gypsies and we know this (as do SBC) to be untrue. Please see Kent Police statement.

We still find ourselves defending against yet another retrospective application.

We believe that demand on this site is from migrant workers and that, therefore, this application should be refused and enforcement action taken to reduce the numbers of mobiles to the number on the decision notice (29).

After the previous application (SW/13/0137) was approved, Dunkirk Parish Council noted in the report to committee:

*'The Parish Council and Kent Police have both pointed out the fact that the number of pitches here exceeds the figure of 15 **but they do not point to any harm arising from the proposed layout**'.*

This is a list of harm arising from the application:

1. Siting caravans this closely together puts social pressure on the residents. When people do not have their own space friction will occur.
2. The caravans are too small and without a dayroom would not appeal to any gypsy or traveller family. We submit that if the occupants are G&T they would not have sufficient room for their lifestyle.
3. Sites in rural or semi-rural settings, should not dominate the nearest settled community.
4. There are insufficient green spaces or play areas; children would be forced to play indoors or on the access roads.
5. There have been arrests on the site and the extremely high density will exacerbate these problems. We believe the arrested people were not gypsies, but of Eastern European origin.
6. Mrs Rouse: This appears to be a proposal which tries to squeeze as many pitches on as possible without any regard to making it a pleasant place for future residents to live on".
7. Due to the intentional unauthorised development the TPO trees already felled cannot be replaced.
8. The harm to flora and fauna within Blean Wood High Landscape Value (Kent Level) is severe and irreversible.

Whilst we accept that Mrs Rouse was writing about an intermediate scheme her comments are **directly measured against the existing permitted 22 pitches** and the comments remain valid against any more than the consented pitches.

This suggests significant weight against the application.

Finally, we would end with this section of Mrs. Rouse's report:

*The current application (17/502338/FULL) changes this balance and, in my opinion, reduces the variety of accommodation on the site to a point where the reliance on the communal building for all pitches dayroom needs **would become untenable**.*

It is my opinion that the revised layout is over intensive and does not, as the design guidance suggests, retain a sense of community on the site.

The balance of whether a communal building was appropriate for 22 pitches was made weighing up the mix of pitch types and the probability that the static mobiles would contain some washing/kitchenette facilities and it is still reasonable to make some of those assumptions about that level of pitch provision; however these assumptions are significant strained when applied

*to 47 pitches. **It is my opinion that a reliance on a communal building for such a significant number of families would result in demonstrable harm to residential amenity.***

There has been since 2010 a number of planning applications at this site a number of which are to rectify development carried out with planning consent or to regularise implementation carried out not in accordance with the approved plans. There has, in my opinion, been a systematic abuse of the planning system whereby the applicant has developed the site as he wishes rather than in accordance with any permitted scheme. This has led to numerous enforcement investigations and resources in rectifying unauthorised development. As previously stated the consented layout was at the limits of what would be appropriate at this site both in terms of amenities for residents and harm to the character of the natural environment surrounding the location. The proposal here is to partially regularise how the applicant has developed the site not in accordance with the approved plans which has caused considerable difficulty when considering how this site should be assessed for its contribution to supply of pitches.

*This catalogue of development being done without consent or not in accordance with the approval shows the disregard the applicant has for the planning system. **The intentional nature of the development which has occurred on the site leading to this application being submitted must, in light of the policy statement, be a material consideration weighing against the application.***

There is an ongoing question over whether the pitches are being occupied by Gypsies & Travellers (as defined in the PPTS) and SW/13/0137 restricts occupation by way of a condition. I will only comment this; that if the pitches were to be vacated due to enforcement proceedings against a breach of condition that this would then leave a significant number of pitches vacant and therefore available for other Gypsy/Traveller residents.

Our overall conclusion, therefore, is that proposals for permanent (or temporary use) would be contrary to the development plan as a whole, and that this would not be out-weighted by any other material considerations. This includes all relevant provisions of the Framework and the PPTS, the intentional, unauthorised development [therefore retrospective] and all other matters.

DPC would therefore ask that the application is refused.

- 6.03 After the scheme had been amended to take on board further advice from Officers to the applicant, the **Parish Council** again wrote in as follows;

Dunkirk Parish Council continues to object to this application.

Our previous comments still apply to this application, and below are additional comments on the new layout.

Swale Borough Council has at least five years pitch supply, as stated by deputy leader Lewin, and as confirmed by planning officer at appeals 23rd and 24th January 2018.

At both of these appeals the site was referred to as a migrant worker site without gypsies and travellers, and with the owner hostile to gypsy applicants. The layout is still not as most gypsies and travellers would expect, hence the over intense proposed development.

The layout does not reflect the ingress into the ancient woodland and with gates it shows intent for future unauthorised development. In fact, there is already a large area of trees with TPO's felled and with caravans parked in place. There is a further 1.2 hectares of ancient woodland with TPO's that has also been felled in anticipation of further ingress.

If migrant workers do not use these mobiles it will add further pitches for gypsies and travellers in the Swale supply.

The drawing shows seven transit pitches against the six allowed under the present planning consent, no amendment has been made in this application.

There are no details of the day room construction as they appear to be small bungalows.

DPC asks that this application is refused and the conditions of application SW/13/0137 are complied with.

6.04 Members should note that whilst the Parish Council (and the planning agent quoted above) both refer to comments from Shelly Rouse (formerly of my Spatial Planning Team) those comments (as set out in full above at paragraphs 2.05 and 2.06) were made specifically in relation to the application as first submitted. It was on the basis of these comments that negotiations with the applicant were held. These negotiations resulted in a reduction in the number of pitches proposed from 47 to 40, and the inclusion of larger pitches and dayrooms. Shelly Rouse's comments quoted are not related to the currently proposed site layout. This report is based on the application as amended, and on later unpublished views from Shelly Rouse on those amendments.

6.05 **The Environment Agency** has raised no comment saying;

We have no comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

6.06 **Kent Highways and Transportation** have said;

The public highway in the vicinity of this application site forms part of the Strategic Road Network that comes under the jurisdiction of Highways England. Therefore, Kent County Council is not the relevant Highway Authority in this instance, and the highway comments must be provided by Highways England, as has been the case with previous applications here.

6.07 **Highways England** originally commented (9 June 2017) as follows;

Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case the A2 (West of Canterbury).

Having reviewed the information provided by the applicant, we understand that the proposed variation of conditions could result in an additional 17 caravans on the site. Notwithstanding previous comments made in connection with previous applications for this site, we have continued to monitor the operation of the network around this location and have determined that the previous expansion of the site did not result in any further issues regarding the safety or operation of the SRN.

On this basis, and based on the information provided, we are satisfied that the proposals will not materially affect the safety, reliability and/or operation of the SRN; however, we will continue to monitor the situation to ensure this is the case.

Therefore we do not offer any objections or additional requirements relating to the proposal, and enclose our HEPR form to this effect.

On reconsultation after the number of caravans had been reduced they said;

We have assessed the proposed amendments and conclude that they will have no greater impact on the Strategic road Network than the original proposals. Consequently, we are content to continue to rely on our 9 June response of No Objection, but will continue to monitor the transport impacts of the site.

6.08 Kent Police has sent the following comments;

I have read the documents attached to this request and I have the following concerns.

My understanding is the original application for this site was based upon the static caravans being used for Irish Traveller/Romany/Roma Gypsy residents. As part of my patrols and conversations with Mr Robb, it is clear the vast majority of these dwellings are being rented out to migrant workers from all over Europe. As there are already 53 static caravans on the site contravening the original application, it appears clear that two of the original conditions are being ignored and any will only assist in legitimising these actions.

I have also read the legal Team statement suggesting this is possibly the only Irish Traveller site in Swale/Mid Kent. There are already established and developing (some contravening planning) Irish Traveller sites in this area and beyond the immediate boundaries of this area.

6.09 Kent County Council Public Rights of Way Officer commented;

Whilst public footpath ZR544 passes along the track and adjacent proposed site, there is unlikely to be a significant impact on the path and therefore I raise no objections to the application

6.10 The County Archaeological Officer has stated that no archaeological measures are required in connection with the proposal.

6.11 Natural England originally commented;

The above consultation relates to proposals for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.

On reconsultation after the number of caravans had been reduced they said;

Natural England currently has no comment to make on the variation of conditions 2, 3, 4 and 5 of planning permission SW/13/0137.

6.12 **Kent Wildlife Trust** has commented as follows;

Thank you for consulting Kent Wildlife Trust on this application.

Kent Wildlife Trust objects to this application owing to 1) incomplete or inaccurate information (such that the application cannot be determined) 2) loss of Ancient Woodland 3) lack of mitigation for the loss of Ancient Woodland.

Paragraph 118 of the National Planning Policy Framework states that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland...unless the need for, and benefits of, the development in that location clearly outweigh the loss."

Paragraph 118 also states "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles...if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."

Paragraph 109 of the National Planning Policy States that "The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity..."

Section 40(1) of the Natural Environment and Rural Communities Act states that "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."

The Site Layout Plan indicates a larger site than that covered by SW/13/0137. The further loss of Ancient Woodland that this necessitates has not been identified within the planning documents submitted, and therefore justification for its loss has not been made. In addition, no mitigation for the loss of Ancient Woodland has been identified. The area is also covered by a Tree Preservation Order. As such the application is inaccurate and is not consistent with national planning policy and should be refused.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and correspondence for application 17/502338/FULL
- 7.02 Application papers and correspondence for applications SW/86/1053, SW/97/0923, SW/07/0950, SW/10/0599, SW/10/1362, SW/11/0163, SW/11/1271 and SW/13/0137

8.0 APPRAISAL

Issues raised by objectors

- 8.01 Issues raised by Dunkirk Parish Council, Kent Wildlife Trust and the planning agent objector include the *following numbered points 1 to 29* which I respond to below. These cover many of the planning issues with the application, which I will appraise below;
1. *This is a retrospective application following intentional unauthorised development*
In relation to this point I have said above that this comment may have been fair in relation to the application as first submitted. However, the changes to the application now show it as an application for something that has not yet been developed. Thus what is now due for determination is not retrospective, even though it might help to overcome the current unauthorised nature of the site layout.
 2. *The site is in a rural location where development is not normally permitted*
Members will be aware that development is not normally permitted in rural areas. However, policy DM10 provides for gypsy and traveller sites in rural areas as an exception to that norm.
 3. *Approval would be contrary to adopted Local Plan policies ST3, DM10 and DM24*
These policies seek to promote sustainable patterns of development, acceptable gypsy and traveller sites, and to protect valued landscapes. The site is close to a service centre, Dunkirk Village Hall, and has good road access. It meets all relevant criteria of policy DM10 and is already approved for this use. Although within a protected landscape the site is surrounded by extensive woodland, the site is not proposed to be enlarged, and I can see no additional harm to landscape arising from this proposal.
 4. *Loss of ancient woodland*
As I have already stated, the site boundaries are not being extended in this application. I am aware that trees covered by a TPO have recently been felled nearby, and that the work has been done at the south-western corner of the site to extend it. None of these matters are part of this application and should not affect its determination.
 5. *Site not operating as a Gypsy and Traveller site, but is occupied by migrant workers*
Recent investigations have supported these allegations and that issue is now the subject of ongoing investigation and enforcement action. This application is not to vary the terms of the occupancy condition on the site, and the current occupation of the site should not affect determination of this application.
 6. *The communal building is not suitable or being used as such*
Recent investigations have supported this allegation and that issue is now the subject of ongoing investigation and enforcement action. This application is not to vary the terms of use of the communal building, and the current use of the site should not affect determination of this application.

7. *Not suitable as a Gypsy and Traveller site, and does not provide space for touring caravans*

This comment may have been fair in relation to the application as first submitted. However, the changes to the application based on Officer advice mean that all pitches now have room for a touring caravan to allow occupants to maintain a nomadic habit of life. These changes have, to my mind, overcome this initial criticism.

8. *There is no demand from Irish Travellers for this site*

Recent planning appeal hearings have heard evidence of an unmet need in Swale for gypsy and traveller pitches despite the Council having approved more pitches than the GTAA revised need figure required. This figure has always been seen as a target rather than a ceiling and given that PPTS and the GTAA do not differentiate between different ethnic groups (nor would this planning permission) I find it hypocritical of those who argue that there is no need for more pitches. Accordingly, this scheme could meet additional demand for a well located and affordable site, and the Council should not be distracted by the applicant's ethnicity.

9. *The site layout is not fit for purpose having regard to 2008 Government design guidelines*

As the discussion above has made clear, the 2008 site design guidelines have now been abandoned. There is no current advice. Nevertheless, the 2013 approved scheme took those guidelines into account. The current scheme continues that approach but is an improvement on the 2013 scheme in the following respects;

- The single pitches are now larger in size
- Some single pitches have dayrooms, and
- Each single pitch now has room to accommodate a touring caravan.

10. *Sites ought not to have more than 15 pitches*

This advice relates to the now abandoned design guidance, but it was never a formal limit. In any case the site is currently approved for 29 pitches and that permission will not be lost even if this scheme is not approved.

11. *The community building does not remove the need for individual day rooms on each pitch*

This criticism may have been fair in relation to the application as submitted which I considered unacceptable. Now, however, the larger pitches all have dayrooms as in the 2013 approved scheme. Many gypsy and traveller sites do not have day rooms despite the Council never opposing them. They are just not always sought. Nor do other sites have a substantial communal building for meeting, leisure, laundry, showers and toilets that this site has.

12. *Not all pitches have day rooms. There are no details of day rooms*

The seven larger pitches and six single pitches are now shown with dayrooms and details of the larger dayrooms have now been provided.

13. *Details provided for day rooms show some larger than a static caravan*

The larger dayrooms come in two sizes and contain sitting, kitchen and bathroom facilities. Both sizes are smaller than the current legal definition of a caravan.

14. *Each pitch should have space for two caravans, one of which is a mobile*

The amendments to the application now overcome this initial criticism.

15. *There is only space for mobiles of up to 30sq m which will provide less space than housing standards require*
Caravan legislation specifies the size of caravans. This permission will not specify the size of any caravan and there is no reason to suspect that the caravans will be inadequate. In any case seven pitches also have dayrooms and there is a large communal building for other needs.
16. *The layout does not show parking spaces*
The amended layout scheme shows at least one parking space on each pitch, more on the larger pitches.
17. *The layout is unimaginative, cramped and represents overdevelopment of the site*
The layout includes a variety of pitch orientation, includes cul-de-sacs as per previous design guidance, and many pitches back onto woodland. A central green amenity area, play area and communal building offer a variety of opportunities for recreation.
18. *The layout does not provide individual pitches which count towards the local need*
The pitches are clearly identified as self-contained with spaces for caravans, parking, washing and storage. They should all be seen as individual pitches.
19. *The site has been extended into nearby woodland*
The site layout as proposed does not extend the approved site boundaries in to the woodland. Any clearance of woodland is a separate matter.
20. *Is the site the same size?*
Yes, the approved site boundaries have not been extended in this application
21. *Lack of enforcement action on the site*
The Council has responded to local allegations both by way of Planning Contravention Notices in 2016 and more recent investigations. This matter should not affect determination of this application.
22. *Cutting down of trees covered by a TPO on the site and nearby*
This matter is wholly irrelevant to the merits of this application and should not affect determination of this application.
23. *The Council now has the chance to correct previous errors*
The 2013 approved scheme has been subject to criticism. Those criticisms often concerned the small size of the single pitches which did not include space for touring caravans. That planning permission was issued before the 2015 re-issue of PPTS which changed the planning definition of gypsies and travellers to exclude those who no longer travel. Previously, even those who had previously travelled would have been included and thus not to have a touring caravan was not critical. This scheme now addresses the new PPTS guidance and provides the opportunity for all occupants of the site to travel and accord with the current PPTS definition. Accordingly, whilst I do not see the 2013 approval as an error, this application allows the site situation to catch up with the changes to PPTS.
24. *The Council has a five year supply of sites and this development is unnecessary*
Recent planning appeal hearings have heard evidence of an unmet need in Swale for gypsy and traveller pitches despite the Council having approved more pitches than the GTAA revised need figure required. This figure has always been seen as a target rather than a ceiling and the simple fact that a figure has been reached does not mean that otherwise acceptable development should be prevented.

25. The Council is not required to meet site demand

The Council is required to meet the need for pitches. Demand may well be higher, but an otherwise acceptable scheme should not be rejected just because it meets demand.

26. The site has been found not to suit Romany gypsy need

The site has not been developed nor specifically proposed for Romany gypsies. However, In Swale we have both Romany and Irish gypsies. The site has been found suitable for gypsy and traveller occupation and the ethnicity of the applicant should not be a reason to refuse planning permission.

27. The applicant has knowingly undertaken this development without planning permission

This is not a fair criticism of the application in its current form.

28. There are already too many caravans on the site, and the site does not have a site licence because of this

This is an enforcement issue, which can be tackled once this application is determined and the approved number of caravans on the site is clear and not subject to possible change. Approval of this application will afford the applicant the opportunity to alter the current site layout and seek site licence.

29. The scheme is contrary to Officer advice provide when the application was first submitted

I have already made it very clear that the Officers were not content with the application when it was first submitted. However, the applicant has listened to these concerns and amended the layout shown. The improvements have been referred to above, and it is the scheme in its amended form that I will be considering below.

Discussion

- 8.02 This site has full planning permission for 29 permanent gypsy and traveller pitches, but this planning permission has consistently been criticised by those seeking planning permission at appeal for gypsy and traveller sites in less suitable locations. Despite my view that the Council was right to grant planning permission in 2013 the lack of adherence to approved drawings and breaches of condition by the applicant have led some Planning Inspectors to regard the site's contribution to pitch supply with caution, and to other Inspectors essentially disregarding it altogether. This is having serious consequences for the Council's adopted Local Plan strategy of meeting remaining pitch need to 2031 via windfall planning applications rather than by a site allocations DPD.
- 8.03 The Council has for some time been engaged in enforcement investigations and negotiations with the site owner/applicant in an attempt to secure compliance with the approved site layout, caravan numbers and occupancy. These efforts have so far failed to secure compliance, and I have made it very clear to the applicant that unless he does comply the Council will take formal enforcement action. Some such action regarding occupancy of the caravans, use of the communal building and an extension of the site will have been taken by the time of the meeting. This application seeks an alternative planning permission in relation to site layout and overall caravan numbers
- 8.04 This application began essentially as a request to legitimise the unauthorised layout of the site as an alternative to enforcement action. The original application plan showed a poor layout with 47 single pitches, some with caravans too closely spaced to meet site licensing conditions. Discussion with officers focussed on overcoming criticisms of

the unauthorised layout of the site (and of the approved site layout) by improving the quality of the development, and retaining the variety of smaller and larger pitches that the 2013 permission achieved. To address recent criticisms of the approved site layout Officers requested the inclusion of day rooms on larger pitches, space for a touring caravan on all pitches to meet the new PPTS definition, adequate parking spaces, and scope to combine single pitches. We sought that all single pitches are of at least approximately 200sq m (up from 150sq m in the 2013 scheme), with amenity buildings. We asked that the approved transit pitches be retained on this accessible and very suitable site, but we made no stipulation about where on the site each type of pitch ought to be positioned.

- 8.05 The scheme was then re-drawn by a local architect showing seven large pitches at the rear of the site, all with dayrooms and space for tourers; retention of transit pitches and play area, as well as some small closes; and smaller pitches of approximately 200sq m with space for touring caravans. This left some issues outstanding, including access to the communal building (blocked by a fence) and lack of detail of dayrooms. These matters have been attended to in the latest version of the proposed site layout drawing. The larger pitches are at the rear of the site; all pitches have parking space and room for a touring caravan; access to the communal building is restored; and the layout is more varied. The dayrooms reflect officer expectations and go some way to addressing previous criticisms of the application, although not all pitches have them – that after all is the role of the communal building which has already been built. Details of the smallest dayrooms on pitches 10 to 14 and the storage sheds remain absent but can be required by condition.
- 8.06 By negotiating with the applicant, I am pleased to see a greatly improved scheme based on a site survey that addresses early criticisms. In my view the scheme has advantages over the 2013 approved layout and I see no reason to oppose a modest increase in pitch numbers as the scheme does not extend the site boundaries.
- 8.07 The application provides a site layout which responds to recent criticism whilst adding a modest number of additional pitches. It does not extend the site boundaries, and where the site has been extended enforcement action is being taken separately. The site is in a suitable and sustainable location and refusal of the application will not mean that its use ceases. Accordingly, I consider that the question marks over the site's contribution to pitch supply should be overcome and the Council's strategy of meeting pitch need by windfall planning applications supported.
- 8.08 Approval of this application will not prejudice the Council in taking action against unauthorised development at the site, but it may set a new benchmark against which that action may be taken. If the currently sought planning permission is granted but not implemented the Council can still take enforcement action against non-compliance with the 2013 approved scheme. To ensure that this matter does not drag on I am recommending that the current scheme, if approved, is commenced within one year so that at this point the Council can act decisively against breaches of either the 2013 approval or the later planning permission if that has been begun, to ensure compliance with the relevant planning permission in terms of site layout and caravan numbers, amongst other things.
- 8.09 The key test of any planning application is its conformity to the Development Plan, or whether other material considerations indicate a decision other than in such accordance. In this case the relevant Development Plan is Bearing Fruits 2031: The Swale Borough Local Plan 2017. Particularly relevant policies are ST3, DM10, DM24 and DM28.

- 8.10 Policy ST3 (The Swale settlement strategy) seeks to guide development to sustainable locations. In this regard urban centres are preferred with sites in open countryside outside any built-up area and with poorest access to services being least favoured. On this point, the site itself is easily accessible and close to a number of amenities such as the petrol filling station and village hall. It is extremely well placed to provide transit pitches. It has already been found suitable as a gypsy and traveller site and I see no reason to see it differently now.
- 8.11 Policy DM10 of the adopted Local Plan is the key specific policy for this development and is set out at paragraph 4.14 of this report.

This application complies with Part A of the policy. In relation to the criteria in Part B, I consider that it meets criteria 1b, 3, 4, 6, 7, 8, 9, 10, 11 and 12, with criteria 2 and 5 either to be demonstrated (and secured by condition) or not relevant to this residential only site. This is because the site is already an approved site, it is conveniently located to allow interaction with the community in Dunkirk, has not previously been thought as dominating the community and is not being enlarged by this application, will not give rise to poor living conditions or danger from flooding, and because it is not being expanded here it will not harm the landscape or surrounding woodlands. Adequate parking and access arrangements are in place.

- 8.12 in relation to other relevant newly adopted policies DM24 and DM28 I see no additional harm arising over and above that arising from the authorised position, and so no conflict with these policies. By requiring open fencing to three sides (see condition (15) below I am following previous advice from the Kent Ecological Advice service which will allow wildlife to move across the site more easily.
- 8.13 In short, I see the proposals to accord with Development Plan policies, and I am not aware of any material considerations which would indicate a reason to refuse the application.

9.0 CONCLUSION

- 9.01 Although I can appreciate unease from the Parish Council about increasing the number of pitches at this site, I do not foresee any real negative impact on the amenities of the area arising. On the contrary if the site layout is better suited to use by the gypsy and traveller community this may resolve current concern over occupation of the site and ease pressure for sites elsewhere.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of one year beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development shall be carried out in accordance with drawing 2549/PL/Sk05 Revision D.

Reason: For the avoidance of doubt.

- (3) There should be no more than forty (40) permanent pitches across the overall site area on which no more than an absolute overall maximum of eighty (80) caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than forty (40) shall be residential mobile homes.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area.

- (4) There shall be no more than one (1) mobile home stationed on any pitch and each pitch shall be provided with space to station a touring caravan.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area.

- (5) No touring caravan may be used other than in an ancillary role to the static caravan on that pitch, and no such touring caravan shall not be occupied by a separate household.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area.

- (6) Each pitch shall be provided with space to park at least one car as shown on drawing 2549/PL/Sk05 Revision D. This space shall not be obstructed by anything which prevents access to it by a car.

Reason: To ensure adequate car parking provision is made on the site.

- (7) No person or group of persons, and no caravan, shall occupy any of the transit pitches marked with a "V" on drawing 2549/PL/Sk05 Revision D for a single period exceeding 3 months. No more than one caravan shall be sited on any transit pitch at any time.

Reason: In accordance with the terms of the application and in the interests of the amenities of the area.

- (8) The static caravans on the permanent pitches (that is those pitches not marked with a "V" on drawing 2549/PL/Sk05 Revision D) shall be sited in accordance with drawing 2549/PL/Sk05 Revision D.

Reason: In accordance with the terms of the application and in the interest of the amenities of the area.

- (9) No caravan on the site shall be occupied by any persons other than by gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (August 2015).

Grounds: In accordance with the terms of the application and in the interest of the amenities of the area.

- (10) The utility/day rooms on individual pitches as shown on drawing 2549/PL/Sk05 Revision D shall be constructed in materials details of which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with the terms of the application and in the interest of the amenities of the area.

- (11) Details of the design, internal layout and external materials for all dayrooms and storage sheds not already provided on drawing 2549/PL/Sk05 Revision D shall be submitted to and approved by the Local Planning Authority before these are erected.

Reason: In accordance with the terms of the application and in the interest of the amenities of the area.

- (12) No caravan may be occupied until details required by conditions (7) and (8) above have been approved, and upon approval these dayrooms and/or storage sheds shown on drawing 2549/PL/Sk05 Revision D shall be erected in the position shown on this drawing within three months of the occupation of the respective caravan.

Reason: In accordance with the terms of the application and in the interest of the amenities of the area.

- (13) The site shall only be used for residential purposes, and it shall not be used for any business, industrial or commercial use. In this regard no open storage of plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

Reason: In accordance with the terms of the application and in the interest of the amenities of the area.

- (14) Notwithstanding details submitted with the application, no floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the amenities of the area, and to protect the biodiversity of the surrounding woodland.

- (15) All perimeter fencing to the site (apart from that bordering the footpath to the eastern boundary) shall only be of timber post and rail style. Any solid fencing on the site's southern, western or eastern perimeters shall be removed before occupation of any caravan approved by this planning permission. Thereafter no fencing other than post and rail fencing shall be erected on the site's southern, western or eastern perimeters.

Reason: In the interest of the amenities of the area, and to protect the biodiversity of the surrounding woodland.

- (16) Notwithstanding the details shown on the submitted and approved drawings, no development shall take place until details of both hard and soft landscape works including proposals for the amenity area, children's play area and fencing between pitches, have been submitted to and approved in writing by the Local Planning Authority. These details shall include planting schedules of plants, noting species, plant sizes and numbers where appropriate, and an implementation programme.

Reason: In the interests of the visual amenities of the area.

- (17) All approved landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

- (18) Upon completion of the approved landscaping scheme, any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area.

- (19) The areas shown as “Amenity Area” and “Children’s Play Area” on drawing 2549/PL/Sk05 Revision D shall be retained for such use and no caravan may be stationed on either area at any time.

- (20) No further materials including aggregates or topsoil shall be brought on to the site in connection with the finishing of hard standing areas, unless details of its nature, specification and origin have been submitted to and approved the Local Planning Authority.

Reason: In the interests of the amenities of the area, to prevent localised flooding from any impervious hard standings.

- (21) The communal building within the site (shown as Amenity Hall Existing) on drawing 2549/PL/Sk05 Revision D shall be used only for the management of the site, and for the amenities of residents of the application site. The building shall not be used for residential purposes.

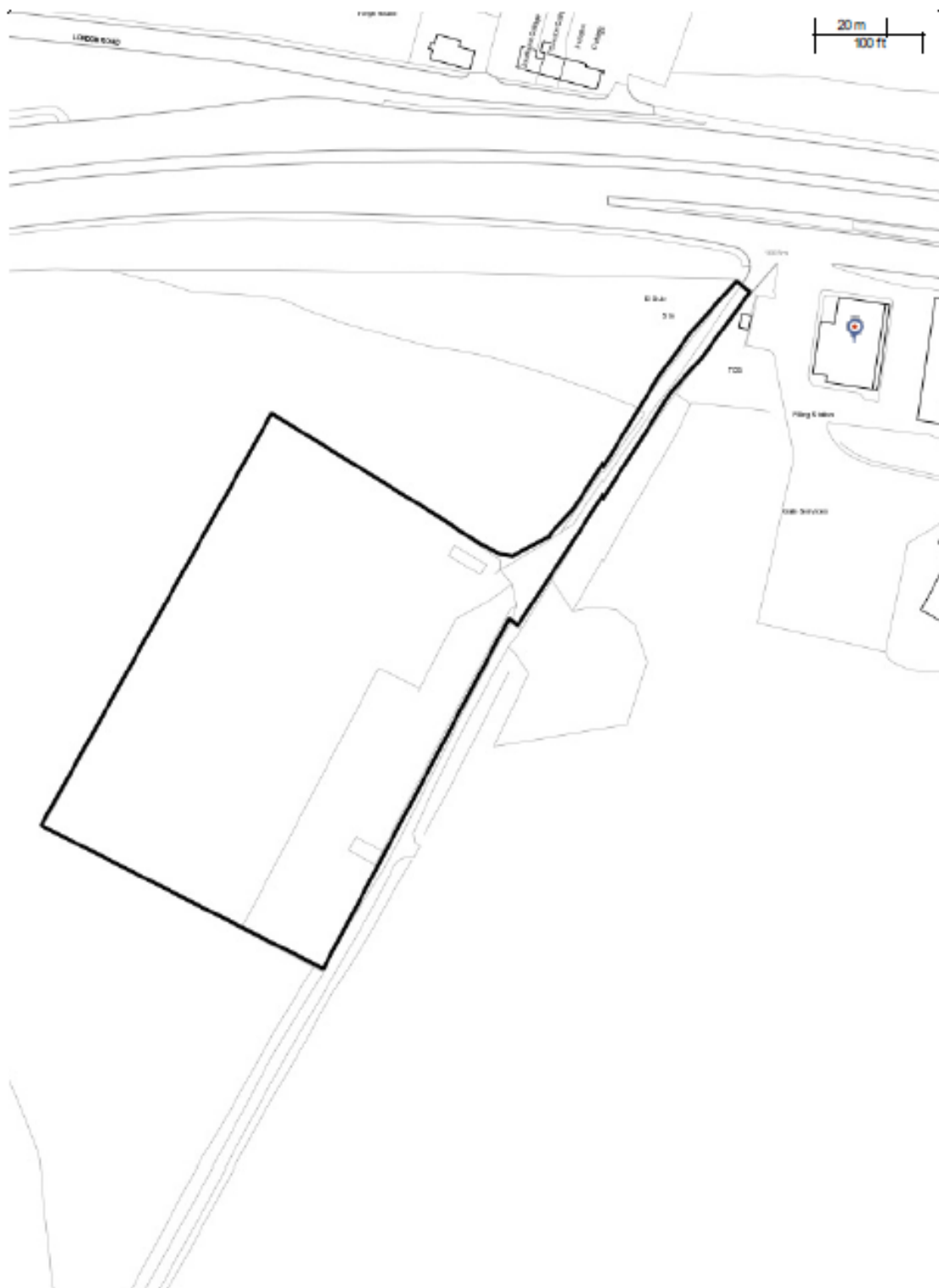
Reason: In the interests of the amenities of the area, and because the site lies in a rural location where new residential use would not normally be permitted.

Council’s approach to this application


The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this instance, the application was carefully considered, along with local representations, the content of the application was clarified, and planning permission was granted with suitable conditions to allow development to go ahead without unacceptable consequences for the local environment.

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



ITEM 2.6 17/502338/FULL - Brotherhood Wood, Gate Hill, Dunkirk, Faversham ME13 9LN
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APPENDIX 1

Philip Brown
ASSOCIATES LTD

CHARTERED TOWN PLANNERS
& DEVELOPMENT CONSULTANTS

Planning Services
Swale Borough Council
Swale House
East Street
Sittingbourne
Kent
ME10 3HT



21 April 2017

Dear Sirs,

**RE: VARIATION OF CONDITION 3 – INCREASE IN No. OF CARAVANS
BROTHERHOOD WOODYARD, GATE HILL, DUNKIRK, FAVERSHAM**

Please find enclosed completed planning application forms, plan and requisite fee in respect of the above-mentioned proposal.

PLANNING STATEMENT

Planning permission No. SW/13/0137 was granted subject to 16 conditions, including Condition 3 which limits the number of caravans to a total of 36, of which no more than 29 can be residential mobile homes.

This application seeks a variation of Condition 3 in order to increase the total number of caravans to 53, of which no more than 47 would be static caravans/mobile homes. As a consequence, conditions 2, 4 and 5 also require amendment in order to refer to an amended Site Layout Plan (Drawing No. PBA1). Condition 4 should be amended to refer to occupation of caravans located within the area demarcated on the Site Layout Plan as being for short-term transit accommodation. Condition 7 is now unnecessary.

The increase in the number of caravans has been made possible by the provision of a large communal amenity building which removes the necessity

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for individual amenity buildings spread around the site, as previously approved.

PLANNING CONSIDERATIONS

The 2013 Gypsy, Traveller and Travelling Showpeople Accommodation Assessment: Swale (GTAA) identified a need for 85 pitches which were to be provided by 2031. Part 1 of the draft Swale Borough Local Plan, Bearing Fruits 2031, has been through public examination and, in her Overall Interim Findings, the Inspector has considered the Council's re-evaluation of the GTAA in the light of the new definition of "gypsy", and has endorsed the Council's proposals: to reduce need to 61 pitches, 2013-2031; and to revise Policies CP3, DM10, DM8 and DM9 to remove the requirement for larger housing allocations to include pitches for Gypsies and Travellers and to reflect up to date planning policy on Gypsy and Traveller sites.

The Local Plan Inspector has accepted that, because 51 of the 61 required pitches have already been completed or had permission granted, the remaining 10 pitches can be provided through windfall planning applications. As a result, the Inspector has agreed that there will no longer be a need for a second Local Plan (LPP2) to deal with the matter of gypsy site allocations, and that action should be taken to delete LPP2 from the Council's Local Development Scheme.

Traditionally, the Borough has one of the largest gypsy and traveller populations within the County of Kent and the South-East region. If the identified need for new pitches has almost been satisfied within the first three years of the assessment period, as alleged, it begs the question: why were there still at least 10 families living on temporary sites in Swale Borough (including 5 pitches recently granted permanent permission on appeal at Greyhound Road, Minster); and how, and where, will new household growth over the next 15 years be accommodated? This illustrates that, firstly, significant in-migration has occurred which was not accounted for by the GTAA and, secondly, that the downward adjustment of the need figure results in a substantial under-estimation of need in Swale.

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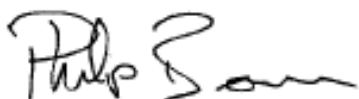
CHARTERED TOWN PLANNERS
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Public sites in Kent have high occupancy levels, low turnover and long waiting lists. New site provision in Swale has been in the form of private sites: mostly small family sites, or the extension/intensification of existing family sites, whereby pitches do not become available to the general gypsy/traveller population. The largest number of new pitches on one site have been created by extension and intensification of Brotherhood Wood. As far as I am aware, it is the only Irish Traveller site in Swale, possibly in mid-Kent. It is extremely well located, adjacent to the A2 and, not surprisingly, it is a highly popular location.

The proposed increase in caravans would clearly contribute towards meeting the identified need for additional gypsy sites: thereby complying with the first part of the Council's draft policy, Policy DM10, for the allocation/approval of sites for Gypsies and Travellers. The site is extremely well screened from public viewpoints; it does not suffer from environmental problems, and is not located in an area at high risk from flooding; and there is safe access onto the A2. The enlarged site capacity would not over-dominate any nearby settled community in any physical sense, and would not over-burden local services. Visitor space, in the form of a short-stay transit site for 6 touring caravans, would be provided. Provision has also been made within the site for amenity open space.

In my opinion, the proposed development fully complies with draft Policy DM10 and, therefore, planning permission should be granted. I trust that you will share my opinion, and look forward to receiving the Council's decision in due course.

Yours faithfully,



PHILIP BROWN BA (HONS) MRTPI

APPENDIX 2

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

1. My name is Shelly Rouse (MRTPI) and I am a full chartered member of the RTPI and I have an MA in Town & Country Planning.

During my career at Swale Borough Council I have been a Development Management Planner (2005 – 2008) and during this time dealt with the majority of planning applications related to Gypsy and Traveller sites. From 2008 onwards I have been a Senior Planning Policy Officer and the lead officer for Gypsy & Traveller policy work. I have been responsible for the production of numerous policy documents and consultations on Gypsy/Traveller planning policy. I have been involved in joint working with Kent County Council on public site provision policy and preparing government grant funding bids. In total I have over 12 years' experience of dealing with Gypsy & Traveller planning issues.

I am a founding member of the Kent Officer Gypsy/Traveller Group and play a key role in the group, under the Chairman. The group meets every three months. Through this group I provide planning policy guidance on Gypsy/Traveller accommodation issues to other less experienced officers around Kent.

I am also part of a discreet group of local authority officers set up and run by DCLG to review the implementation and effectiveness of Gypsy & Traveller national policy; including discussions around replacing the revoked design guidance and incorporating any future policy into the NPPF review.

2. Planning History of the Site

The site was previously a commercial woodyard and is located at the top of Gate Hill along the A2 and accessed behind the Gate Service Station. The nearest settlement is Dunkirk village located 1km (approx.) to the west of the site.

Planning permission was granted in 2010, under SW/10/1362, for use of the site as a Gypsy & Traveller site including 2 single pitches and 1 double pitch, these included space for a mobile home, an additional caravan such as tourer, a utility/dayroom, storage shed and parking space.

Consent was granted the following year (2011), under SW/11/1271, for a further 7 single pitches and 2 transit pitches. In combination these two consents (SW/10/1362 & SW/11/1271) permitted the permanent siting of a maximum of 21 caravans of which 11 can be a mobile home/static caravan, plus up to 5 caravans across the two transit pitches.

The most relevant planning permission for the site now was that granted under SW/13/0137. This is the permission regularly referred to by appellants and third parties when discussing other sites around the borough or supply of pitches.

Planning permission SW/13/0137 was a proposal to

- Retain the two transit pitches (maximum of 6 caravans split across the two pitches)
- Reduce the number of pitches which consisted of a mobile/static, another caravan, amenity building, storage shed and parking space, referred to as family pitches on the application, to 7 pitches

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

- Increase the total number of pitches available at the site with an additional 22 pitches and a communal amenity building. The associated layout plan showed of the 22 pitches that 5 had the flexibility and capacity to be double, or triple, pitches for extended family occupation.

The additional 22 individual pitches did not contain an amenity/dayroom building. The pitches with the potential to be double pitches consist of space for 2 mobiles/statics or other caravan such as tourers, storage shed, an area for amenity/clothes drying and two parking spaces.

The 22 individual pitches are of a smaller size than the family or transit pitches. They are 15m x 10m in size and contain one mobile/static, storage shed, an area for amenity/clothes drying and a parking space. Many of the small size pitches have caravans provided by the site owner, whom confirmed in the accompanying planning statement, that the caravans provided have the facilities for cooking, washing and basic hygiene.

The consent allowed 29 permanent pitches (7 family pitches, 22 smaller size pitches - 5 of which have flexibility and capacity to be double pitches) for a stationing of a maximum of 36 caravans and 2 transit pitches (for up to 6 caravans).

The consent also allowed a communal amenity building (the positioning of this within the site has been changed via an agreed minor amendment). The amenity building contains male/female and disabled toilet and shower facilities, a kitchen and recreational rooms for games, teaching, and prayer and group activities. The consent therefore contained a mixture and choice of pitch type/size as well as much needed transit provision.

3. Layout

The approved layout reflected the now revoked Design Guidance (2008), although it did not strictly adhere to it. Most notably with the use of the communal amenity building for the smaller pitches rather than individual dayrooms as advised by the design guidance. The Council considers it was entirely appropriate to grant the consented layout and communal amenity building which respected but did not stringently follow the design guidance.

The guidance is primarily intended to cover social site provision for Gypsies and Irish Travellers and was particularly relevant to local authorities and registered social landlords wishing to bid for Government grants, therefore was in parts onerous in its guidelines when applied to private site provision.

This guidance (para 1.7) makes clear that there is no single, appropriate design for sites, any more than there is for general housing development and (para 1.12) recognised that it will not be possible to meet all aspects of this guidance in every respect on every site.

The critical part of the guidance (para 1.13) makes the important point that where site provision is private and comes directly from the Gypsy/Traveller community that they are best placed to shape the design and features of the site.

Paragraph 1.13

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

The current application (17/502338/FULL) changes this balance and, in my opinion, reduces the variety of accommodation on the site to a point where the reliance on the communal building for all pitches dayroom needs would become untenable. The current application retains the larger pitches alongside the communal building, inhabited by the site owner and family. The transit pitches along the front boundary are relocated to a central point and the front boundary area replaced with 9 small size single pitches. The other family pitches are replaced with smaller size single pitches. All the other consented pitches are replaced with smaller size single pitches and reconfigured from the closes design with an overall total of 47 pitches in a liner design with fairly harsh fencing boundary treatments.

It is my opinion that the revised layout is over intensive and does not, as the design guidance suggests, retain a sense of community on the site.

The layout changes the site to 47 smaller size pitches, containing one static mobile, parking space for a tourer and car. The amenity space also seems smaller than the consented layout. All of these 47 pitches would be reliant on the single communal amenity building rather than the 22 consented pitches. The amenity building's washings and cooking facilities would be insufficient to cope with 47 families using them which result in sufficient harm to residential amenity. Nor does the suggested layout show easy access to the amenity building with fencing blocking the most direct route for the vast majority of pitches. The balance of whether a communal building was appropriate for 22 pitches was made weighing up the mix of pitch types and the probability that the static mobiles would contain some washing/kitchenette facilities and it is still reasonable to make some of those assumptions about that level of pitch provision; however these assumptions are significant strained when applied to 47 pitches. It is my opinion that a reliance on a communal building for such a significant number of families would result in demonstrable harm to residential amenity.

In my opinion, the more linear layout coupled with the intensification of small size pitches creates a site which would not foster a sense of community which is much needed on large sites. The over development of the site and the harsh boundary treatments would be significantly harmful to proposed residents amenity. This appears to be a proposal which tries to squeeze as many pitches on as possible without any regard to making it a pleasant place for future residents to live on.

4. Planning Policy

Relevant planning policy is

- The NPPF
- The PPTS (2015)
- The adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies DM10, DM24, DM28.

The NPPF

The development would not meet the requirements of the NPPF (para 7, para 17 Core Planning Principles 4&5) by virtue of the harm to the character of the area through the intensification of

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

"In the case of small private site development there will be similarities but it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and may contain elements which are not appropriate or popular for wider application in respect of social provision. It would not therefore be appropriate to use this good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission."

The guidance further more states that *"Sites of various sizes, layouts and pitch numbers operate successfully today and work best when they take account of the size of the site and the needs and demographics of the families resident on them."*

"Paragraph 7.9 There is no one-size-fits-all measurement of a pitch as, in the case of the settled community, this depends on the size of individual families and their particular needs."

The permitting of a choice of pitch types, including smaller pitches than previously seen elsewhere was therefore regarded as acceptable and in accordance with the design guidance.

Most the objections seen in the Local Plan process relate to the use of the communal building for 22 pitches instead of individual dayrooms. Again the Council considers it was entirely appropriate to grant permission for the consented layout. The design guidance in Appendix B shows a large site layout and shows the amenity buildings as semidetached very small buildings containing either a bathroom and storage cupboards or a shower room and kitchenette. So it can be said that the guidance itself does not show large amenity buildings for each pitch as appropriate. The majority of modern day mobile units contain kitchenette areas and frequently include bathrooms. The large amenity building provides for bathroom and shower facilities for each of the 22 smaller pitches. Therefore the absence of a small amenity building (as shown in the guidance appendix B) containing shower room and kitchenette cannot be said to significantly harm the residential amenity of the occupants as these facilities are provided within the mobile units or the large communal amenity building.

One of the most important features of the consented layout is the inclusion of small closes and groupings of pitches off a main route into the site. Importantly this approach is advocated in the design guidance; (para 4.8) states

"Sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community. Nevertheless, where a larger site is unavoidable, or where one exists already, in a few cases smaller 'closes' have been created within the site for extended families, thereby retaining the sense of community and creating defensible space."

The current consent (SW/13/0137) provides an appropriate balance between enabling a variety of accommodation to be catered for, and making best use of available space. In my opinion, the consented layout is at the limit of what is permissible and appropriate in terms of the number of smaller size single pitches. The number of single small size pitches consented, to my mind, is balanced by the variety of other larger pitches which have their own amenity buildings, sufficient transit pitches and a new modern communal building.

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

development, harm to the surrounding local wildlife site and the harm caused to residential amenity.

The PPTS

Para 4 bullet point k. for local planning authorities to have due regard to the protection of local amenity and local environment.

Para 13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally.

The proposal does not, in my opinion, meet either of these requirements.

Policy DM 10

Gypsy and Traveller sites

Part A: Retention of sites for Gypsies and Travellers

Existing permanent sites and those granted permanent planning permission will be safeguarded for use by Gypsies and Travellers, unless it is demonstrated the site is no longer suitable for such use.

Part B: Gypsy and Traveller sites

The Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:
 - a. there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or
 - b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or
 - c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.
2. Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);
3. **Can achieve an integrated co-existence between all communities;**
4. Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or **causes significant harm to the character of an area**, its landscape, or the capacity of local services;
5. Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;
6. **Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;**
7. **Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;**
8. **Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;**
9. Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;
10. Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
 and comments on planning application 17/502338/FULL

11. Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and
 12. Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.

The proposal would not, in my opinion, meet the requirements of Policy DM10. Criterion 3 achieving integrated co-existence would be difficult to achieve with the over intensive development of pitches and the linear layout. By diminishing of the choice of pitch sizes and types this would affect the co-existence of residents on the site. The proposed intensification and layout would cause significant harm to residential amenity therefore failing to meet criterion 6.

Criteria 4 and 7 primarily protect the natural environment and the proposal would not meet their requirements. The site is surrounded by the Blean Woods South Local Wildlife Site which covers some 329 hectares of mixed native deciduous woodland, conifer and sweet chestnut plantations, as well as bog and heath. Grazing animals are used in the bog and heath areas and a coppice management programme has been restored. This benefits a variety of species such as nightjar, nightingale, lesser-spotted woodpecker and buzzard. There has previously been unauthorised felling of this ancient woodland by the applicant and this has occurred again in September 2017 during the consideration period for this application. Whilst the felling and destruction of TPO'd trees has occurred outside the application boundary it does highlight the delicate balance the consented layout had with the surrounding woodland. The proposed layout here, whilst still within the site confines, would due to the over intensive nature cause harm to the setting and features of the immediately adjacent wildlife site.

Criterion 8 would not be met by the significant volume of boundary treatments between the individual pitches and the fencing around the communal amenity building.

The development would not meet the requirements of Policy DM10.

5. Five year supply

The Council can demonstrate a five year supply of pitches. It is worth noting that the pitches consented in SW/13/1037 are considered implemented (albeit not in the correct layout) and occupied so therefore have already been counted towards meeting the overall need and supply calculations. Any contribution to further supply would be limited to the modest increase in pitches this application proposes. In light of the fact the Council can demonstrate a five year it is considered that any extra pitches this revised layout produces are not currently required.

6. Other matters

On the 31st August 2015 a planning policy statement was issued by DCLG. This statement signalled the Government's intention to issue a written ministerial statement on development undertaken intentionally without planning consent.

BROTHERHOOD WOODYARD, DUNKIRK
PERSONAL STATEMENT OF SHELLY ROUSE MRTPI
and comments on planning application 17/502338/FULL

The planning policy statement read thus;

"The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals."

There has been since 2010 a number of planning applications at this site a number of which are to rectify development carried out with planning consent or to regularise implementation carried out not in accordance with the approved plans. There has, in my opinion, been a systematic abuse of the planning system whereby the applicant has developed the site as he wishes rather than in accordance with any permitted scheme. This has led to numerous enforcement investigations and resources in rectifying unauthorised development. As previously stated the consented layout was at the limits of what would be appropriate at this site both in terms of amenities for residents and harm to the character of the natural environment surrounding the location. The proposal here is to partially regularise how the applicant has developed the site not in accordance with the approved plans which has caused considerable difficulty when considering how this site should be assessed for its contribution to supply of pitches.

This catalogue of development being done without consent or not in accordance with the approval shows the disregard the applicant has for the planning system. The intentional nature of the development which has occurred on the site leading to this application being submitted must, in light of the policy statement, be a material consideration weighing against the application.

There is an ongoing question over whether the pitches are being occupied by Gypsies & Travellers (as defined in the PPTS) and SW/13/0137 restricts occupation by way of a condition. I will only comment this; that if the pitches were to be vacated due to enforcement proceedings against a breach of condition that this would then leave a significant number of pitches vacant and therefore available for other Gypsy/Traveller residents.

2.7 REFERENCE NO - 17/504037/FULL			
APPLICATION PROPOSAL			
Proposed residential development of garden land to provide 4 no. detached 4 and 5 bedroom dwellings with associated garaging, parking and shared private driveway, as amended by drawings received on 24/01/2018 and 06/02/2018.			
ADDRESS 172 Scarborough Drive Private Street Minster-on-sea Sheerness Kent ME12 2LR			
RECOMMENDATION – Grant permission, subject to the further comments of the Parish Council and local residents			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
The scheme is considered to be acceptable in this location. It does not have any material impact on residential amenity of neighboring occupiers or the character of the area. The scheme meets all relevant development plan policies.			
REASON FOR REFERRAL TO COMMITTEE			
Contrary to the comments of the Parish Council			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr N Shaw And Mrs E Conden AGENT Kent Design Partnership
DECISION DUE DATE 10/10/17	PUBLICITY EXPIRY DATE 29/09/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/97/0883	Detached chalet bungalow	Granted permission	28/11/1997
<i>Reason: Development within the built up area boundary, no detrimental impact on amenity. Permission granted with conditions.</i>			
SW/90/1289	Outline application for residential home & sheltered bungalows	Granted permission	03/03/1993
<i>Reason: Development within the built up area boundary, no detrimental impact on amenity. Permission granted with reserved matters.</i>			
SW/90/0995	Outline application for old person residential home & sheltered housing	Refused permission	18/09/1990
<i>Reason: Development was contrary to local development plan policies</i>			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is located off Scarborough Drive in Mister Cliffs. It is sandwiched between Westcliff Drive and Kings Road and bounded on all sides by residential dwellings. The site is accessed from a gated gap in the building line along Scarborough Drive and is currently the garden to “The Cottage”. . This entrance point is opposite the junction with Love Lane to the south. To the north of the application site is a detached bungalow with sea beyond.

- 1.02 The whole area gently slopes down toward the north, along the coastline. The proposal site is a rectangular shape and covers some 0.535 hectares with clearly defined boundary lines on the west and eastern sides. 'The Cottage' which is the existing residential dwelling on the plot is to be retained and incorporated into the general scheme of development.

2.0 PROPOSAL

- 2.01 Planning permission is sought for the erection of 4 two storey detached houses together with 3 detached garages (plot 3 is proposed to have an attached garage).. The proposed buildings are individual in appearance and are arranged in a linear form with three of the buildings (nos. 2, 3 and 4) to the east of the site and Number 1 to the west. An amended layout plan has been received, changing the layout to achieve the Council's normal minimum separation distances between dwellings.
- 2.02 Plot 1 to the west of the plot will have sea facing views and a net square footage of 2191.6. This unit would measure 11.2 metres wide, a maximum of 14.4 metres deep, and 8.8 metres to the ridge of its roof. It would have a triple detached garage, measuring 9.3 metres wide, 6.5 metres deep and xm high to the ridge of its roof. It would be sited facing north, in excess of 21 metres from the dwelling to the rear fronting Scarborough Drive and in excess of 11 metres from the closest dwelling to the west. The proposed garage would be located hard up against the side boundary pof the site, 10 metres from the closest dwelling.
- 2.03 The proposed houses on Plots 2, 3 and 4 are arranged in a row on the eastern side of the site.
- 2.04 The dwelling on plot 2 would measure 12.7 metres wide, 10.6 metres deep and 8.2 metres to the ridge of its roof. It would have a detached garage to the north, measuring 6.2 metres x 6.9 metres and 5.4 metres high to the ridge of its roof. The dwelling would be sited 21 metres from the dwelling to the rear, 14 metres from the dwelling to the north and 3.5 metres from the proposed dwelling on plot 3 to the south.
- 2.05 The dwelling proposed on plot 3 would measure 15.3 metres wide, 12.8 metres deep and 9.9 metres to the ridge of its roof. This dwelling would have an attached garage, and would lie in excess of 21 metres from the closest dwelling to the rear, 1 metre from the dwelling on plot 4 to the south.
- 2.06 The dwelling on plot 4 would measure 12.7 metres wide, 11 metres deep and 9 metres to the ridge of its roof. It would have a detached garage measuring 6.2 metres x 6.9 metres, 5.4 metres to the ridge of its roof. It would be located in excess of 21 metres from the dwellings to the rear, in excess of 11 metres from the dwelling to the south.
- 2.07 Each dwelling would have a rear garden of at least 10 metres in depth, and each would have at least 2 off street parking spaces.
- 2.08 Access would be taken from Scarborough Drive, and the access road within the site would be a minimum of 4.1 metres wide, with a 5.9 metre wide passing point near the access onto Scarborough Drive. The plans show a refuse collection point at the front of the site.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

- 3.01 Chapter 4 – Promoting sustainable transport
 Chapter 6 – Delivering a wide choice of high quality homes
 Chapter 7 – Requiring good design
 Chapter 10 – Meeting the challenge of climate change, flooding and coastal change

Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

- 3.02 ST 1 Delivering sustainable development in Swale
 ST 2 Development targets for jobs and homes 2011-2031
 ST 3 The Swale settlement strategy
 ST 4 Meeting the Local Plan development targets
 CP 2 Promoting sustainable transport
 CP 3 Delivering a wide choice of high quality homes
 CP 4 Requiring good design
 DM 6 Managing transport demand and impact
 DM 7 Vehicle parking
 DM 14 General development criteria
 DM 19 Sustainable design and construction

3.03 Supplementary Planning Documents:

Kent Design Guide Review: Residential Parking (2008): With no up to date local guidance on parking standards, the recently adopted local plan makes reference to Kent County Council vehicle parking standards for new development proposals. This interim document was published in November 2008 and assesses the provision of parking in new residential development and impact on a locality.

The document looks at factors such as location of new residential scheme, size of residential accommodation to be provided and transport implications.

4.0 LOCAL REPRESENTATIONS

- 4.01 There have been a total of **9** responses received all objecting to the proposal. Concerns expressed by the objectors mainly centred around the impact of the proposed development on private unmade local roads and future maintenance; scale of the proposed dwellings being overly dominant and associated overlooking and privacy concerns; poor access not being wide enough to accommodate extra traffic movements; no sewage and drainage provisions with capacity concerns; the proposed application being contrary to local plan policies; concerns of flooding. I have reconsulted local residents on the amended layout plan and will update Members at the Meeting.

5.0 CONSULTATIONS

- 5.01 Minster-on-Sea Parish Council considers this to be a 'windfall site' providing much needed houses of that type within the built-up area. However, whilst querying the lack of an ecological survey, the Parish Council's support is conditional on an ecological survey being provided. No such survey has been received. I have reconsulted the Parish Council on the amended layout plan and will update Members at the Meeting.

- 5.02 Southern Water do not raise objection subject to an informative advising suitable disposal of surface water. Southern Water standing advice is to be followed and the informative suggested will be included on a decision notice.
- 5.03 Natural England advise that the application “relates to proposals for new dwellings within the zone of Influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council’s responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.”

6.0 BACKGROUND PAPERS AND PLANS

- 6.01 The applicant entered into pre planning applications discussions with Officers following a previous failed scheme and has addressed design concerns. Given the character of the application site and the area in general, a traditional design approach was taken aimed at the family market. This has resulted in a reduced scheme comprising of four dwellings where the scale of Plot 2 has been further reduced during the course of the application to address overbearing and privacy concerns.
- 6.02 Submission documents include a Design and Access statement composed by Kent Design Partnership and dated July 2017.

7.0 APPRAISAL

Principle of Development

- 7.01 The site is located in the built up area, where new residential development is acceptable as a matter of principle.

Impact on Visual Amenity

- 7.02 The proposed dwellings and garages are appropriately designed and would sit comfortably within the site. I am mindful that this proposal would result in the creation of a cul de sac. However – this is not in itself objectionable and I do not consider that the layout of the proposed development would be so at odds with the surrounding pattern as to be harmful.

Impact on residential amenity

- 7.03 Policy DM14 of the adopted Local Plan seeks to ensure that there would be no unacceptable impacts on surrounding amenities, The plans have been amended and none of the dwellings lie within 21 metres of facing dwellings to the rear or within 11 metres where the relationship is flank to rear. I do not consider that the proposed dwellings would give rise to significant overlooking.
- 7.04 In relation to residential amenity for future occupiers; the standard of accommodation is considered to be suitable. The proposed units are of good sizes and would provide a satisfactory internal level of accommodation for future occupants. The individual

houses are large and provide good quality internal layout and external amenity spaces. In my opinion, the scheme and would provide a good level of amenity for future residents.

Highways

- 7.05 Whilst I note the objections raised in this regard, the parking provision proposed meets the requirements of the County Highway Authority and the access road is also acceptable in terms of highway safety and convenience. Damage to the unmade road as the result of this scheme is not a material planning consideration but a private legal matter between the relevant parties. Finally in this regard, the traffic generated by four additional dwellings would not give rise to an excessive number of vehicle movements which in themselves would harm highway safety or convenience.

Ecology

- 7.06 The proposed development site falls within the 6km zone of influence of the Thames Estuary and Marshes and Members will note the response of Natural England. I have included below a Habitats Regulations Assessment. The applicant has not provided an ecological report and I note the comments of the Parish Council. I am mindful that the site is currently domestic garden and as such there may be limited potential for protected species within the site. However – I have consulted the KCC Ecologist and am awaiting their comments. I will update Members at the Meeting.

Flood Risk

- 7.07 I note the concerns raised on the basis of flood risk. The site does not lie in an area at risk of flooding. I do though recommend imposing condition 6 below which requires drainage details to be submitted and approved.

8.0 CONCLUSION

- 8.01 The proposed development is acceptable in principle and I do not consider that it would harm visual or residential amenity, or highway safety and convenience. I therefore recommend that, subject to the receipt of any additional representations as set out above, planning permission is granted.

9.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- 2) The development shall be carried out in accordance with the following approved plans numbered -.
Reason: In the interests of proper planning
- 3) Prior to the commencement of development, details of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: in the interest of visual amenity.

- 4) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
 - (i) A programme for the suppression of dust during any demolition works and construction of the development
 - (ii) The areas to be used for the storage of plant and materials on site;
 - (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (iv) Measures to guard against the deposit of mud and similar substances on the public highway

The development shall be carried out in accordance with the approved details.

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- 5) No development beyond the construction of foundations shall take place, until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, any means of enclosure, hard surfacing materials, graphic/visual details for the method of marking out of parking spaces, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- 6) Prior to the commencement of development details of the means of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

- 7) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- 8) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, and energy efficiency. Upon approval, the details shall be incorporated into the

development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

- 9) No demolition/construction activities shall take place, other than between 0700 to 1900 hours (Monday to Friday) and 0700 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 10) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- 11) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason In the interest of highway safety

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

- Offering pre-application advice
- Where possible, suggesting solutions to secure a successful outcome.
- As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance the applicant/agent was advised of minor changes required to the application and these were agreed and submitted.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

Habitat Regulations Assessment

This HRA has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the

Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and

compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

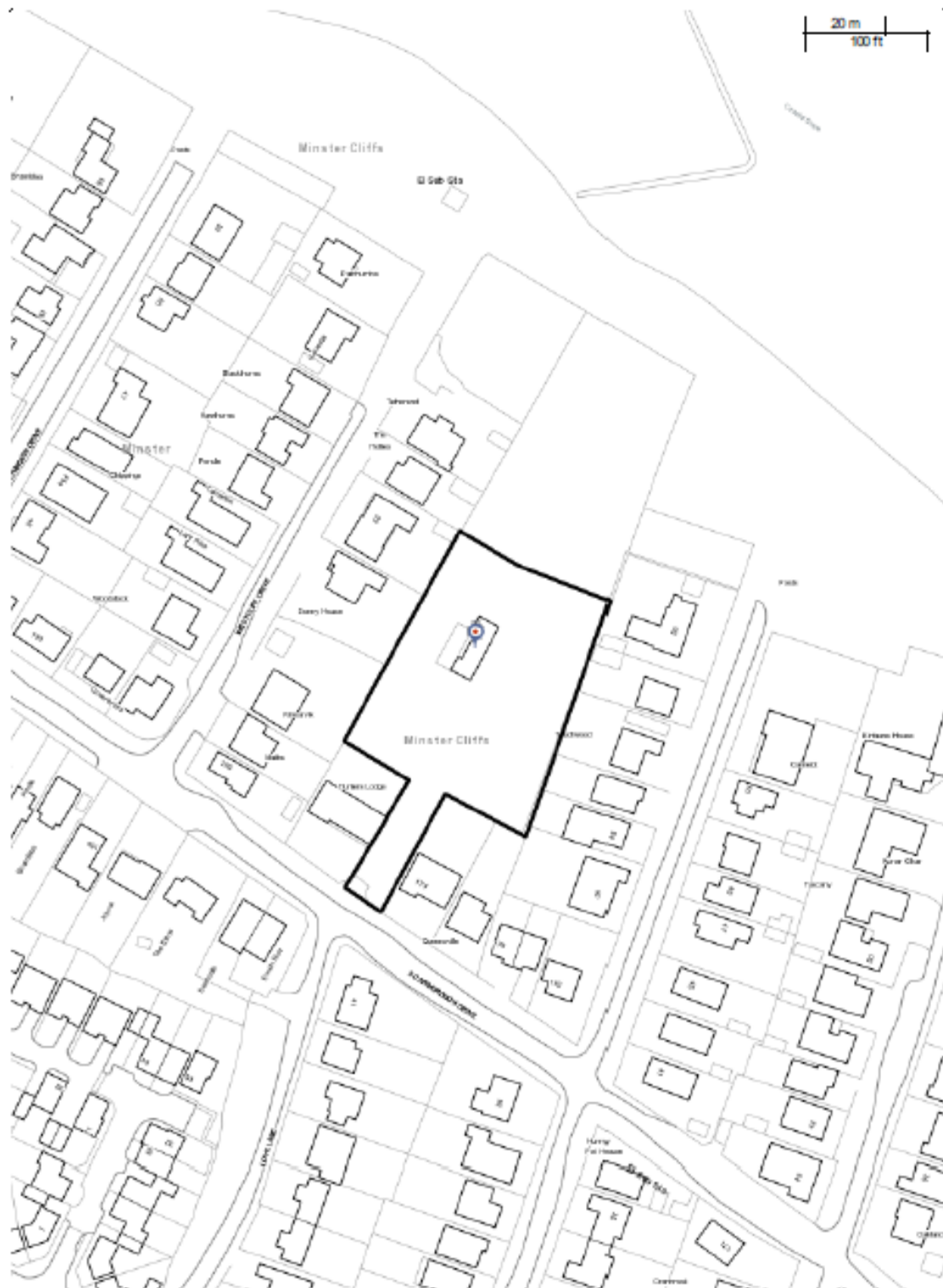
Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.


INFORMATIVES

- 1) Southern Water requests that the applicant contacts it to discuss the requirement for a formal application to; abandon a public sewer; provide foul and surface water drainage; and provide a water supply on 0330 303 0119. Should a sewer be found during construction the developer should contact Southern Water to discuss its requirements.
- 2) “A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk”.

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



ITEM 2.7 17/504037/FULL - 172 Scarborough Drive, Minster-on-Sea, Sheerness ME12 2LR
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PLANNING COMMITTEE 1 MARCH 2018

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – 2 Howard Avenue, Sittingbourne
APPEAL DISMISSED**

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.2 – Well Pets Animal Hospital, 6A The Broadway, Minster**

APPEAL DISMISSED (ADVERT)

SPLIT COMMITTEE DECISION

Observations

Full support for the Council's decision.

- **Item 5.3 – Seabreeze Park, Marine Parade, Sheerness**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector agreed with the Council that the development was unacceptable on account of harm arising in a number of respects: in particular, on account of the loss of a designated holiday park, impact on the character and appearance of the rural area, erosion of the important countryside gap and conflict with the minerals safeguarding policy.

- **Item 5.4 – 35 Springvale, Iwade**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector has effectively ignored the Council's Supplementary Planning Guidance.

- **Item 5.5 – 77 Augustine Road, Minster**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Similar to item 5.4 above, the Inspector has effectively ignored the Council's Supplementary Planning Guidance.

- **Item 5.6 – 124 Athelstan Road, Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

- **Item 5.7 – 211 High Street, Sheerness**

APPEAL ALLOWED (ADVERT)

DELEGATED SPLIT DECISION

Observations

The Inspector concluded that the sign in question was not harmful and allowed the appeal accordingly.

- **Item 5.8 – Amos Field, Denstrode Lane, Dunkirk**

APPEAL ALLOWED

ENFORCEMENT APPEAL

Observations

Members should note that it appears that the time taken to determine the appeal (since the notice was served in December 2016) has been used by the appellants to alter the building in question to more closely comply with the approved scheme; and in which the Inspector accepts other changes to the building as complying with the approved drawings.

- **Item 5.9 – Windmill Farm, Yaugher Lane, Hartlip**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector appears to have wholly confused herself regarding need for and supply of pitches, and the figures and methodology set out in the GTAA. Officers have therefore sought legal advice on the merits of challenging this baffling and poor decision and will update Members at the Meeting.

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Appeal Decision

Site visit made on 17 January 2018

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 January 2018

Appeal Ref: APP/V2255/D/17/3183863

2 Howard Avenue, Sittingbourne, Kent ME10 2NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Wanda Meyer against the decision of Swale Borough Council.
 - The application Ref 17/503345/FULL, dated 26 June 2017, was refused by notice dated 21 August 2017.
 - The development proposed is a two storey rear extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the neighbouring occupiers, with particular regard to daylight/sunlight and any overshadowing.

Reasons

3. The intended enlargement of this semi-detached dwelling would have two distinct elements. There would be a two-storey extension running virtually the dwelling's full width along with a single storey extension, set in from the common boundary with No 4. This is the only property potentially affected by the proposal.
4. The two-storey section would also serve as a link to incorporate the existing detached, side garage into the expanded footprint, resulting in a substantial and bulky form of development. No 4 has been extended by way of a conservatory feature but it is a very modest development compared to the current appeal proposal.
5. The Council's Supplementary Planning Guidance 'Designing an Extension – A Guide for Householders' (SPG) advises that, having regard to the potential impact on neighbouring properties, first floor extensions should not exceed a depth of 1.8m. Whilst some flexibility should reasonably be applied for such, given the varying types and sizes of dwellings and the individual circumstances involved, in this instance the two-storey addition, which would significantly exceed this guideline, would also sit very close to the common boundary.
6. This is a particular concern and I consider that the impact would be exacerbated due to the relative orientations of the two properties, with the appeal dwelling lying to the south east of No 4. The factors would compound, and when taken also with the additional projection of the single storey addition,

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Appeal Decision APP/V2255/D/17/3183863

the development would amount to an overbearing feature which would unduly effect the entry of daylight/sunlight to the neighbouring property and cause overshadowing.

7. I have taken into account the appellant's photographs supplied and also her comments as to how she feels the Council could have better dealt with the planning application. This might be the case but the representations made in support of the appeal do not affect my conclusions as to the consequential impact on the neighbouring occupiers.
8. I have also had regard to the appellant's requirements for additional floorspace. However, whilst I acknowledge her family's needs, I am not convinced that the proposal, as put forward, represents the only solution to this end. Besides, it does not outweigh the harm I have identified would result from the development.
9. I conclude that the proposal would be harmful to the living conditions of the neighbouring occupiers, and this would materially conflict with the objectives of Policies DM14 and DM16 of 'Bearing Fruits 2031: The Swale Borough Local Plan', in terms of safeguarding the residential amenities of neighbours, and also the Council's SPG.
10. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR



Appeal Decision

Site visit made on 23 January 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2018

Appeal Ref: APP/V2255/H/17/3185755

6A The Broadway, Minster-on-Sea ME12 2RN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Independent Vetcare Ltd against the decision of Swale Borough Council.
 - The application Ref 17/503041/ADV, dated 8 June 2017, was refused by notice dated 18 September 2017.
 - The advertisement proposed is for 1 x roof mounted lettering sign.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council issued a split decision in which express advertisement consent was granted for 2 no. wall mounted signs on the front elevation of the appeal property and 1 no. pole mounted sign on the forecourt of the premises. It was evident from my site visit that these signs have already been erected.
3. For the avoidance of doubt this appeal relates only to the refusal by the Council of the roof mounted lettering sign as set out in the final bullet point above.

Main Issue

4. The main issue is the effect of the proposed roof mounted advertisement on the amenity of the area

Reasons

5. The appeal property is a single storey semi-detached commercial premises used as a veterinary surgery with small parking areas at the front and rear. The property is set back from the road within an area with a mixed residential and commercial character. A two storey dental surgery is located adjacent to the site and a small parade of commercial units on the opposite side of the road. A residential property is situated to the north of the appeal site.
6. The roof mounted lettering would be located on the front roof plane above the eaves of the appeal property and contains individual non-illuminated aluminium solid coloured lettering.
7. Paragraph 67 of the National Planning Policy Framework (the Framework) states that poorly placed advertisements can have a negative impact on the

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Appeal Decision APP/V2255/H/17/3185755

appearance of the built and natural environment. However, only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment, and should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

8. The Planning Practice Guidance sets out that in assessing amenity the general characteristics of the locality should be considered, and that the scale of advertisements should be in keeping with important historic, architectural or cultural features¹.
9. There is some advertising on the nearby commercial buildings, including fascia signs or projecting signs, but they are all small in scale and identify the building they relate to.
10. The proposed advertisement, although set back, would form a dominant feature on the roof plane which would be poorly related to the building and jar with the area's general characteristics where the commercial signs are predominantly understated. It therefore, in my view, would be intrusive in this location and adversely harm the visual amenity of the area. Furthermore given the existing external advertisement signs on the appeal property, I am in no doubt that the business still has some presence within the street scene and I give little weight to the appellant's argument that the sign is required to draw attention to the veterinary surgery.
11. Consequently, I conclude that the roof mounted lettering sign would adversely harm the amenity of the area. The Council's decision refers to Policies DM14 and DM15 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) and the Council's Supplementary Planning Guidance: The Design of Shopfronts, Signs and Advertisements 1993 (SPG). The general LP Policy DM14 requires proposals that are both well sited and of a scale, design and appearance that are sympathetic and appropriate to the site and locality. More specifically, Policy DM15 and the SPG set out, amongst other things, that advertisements should be designed in a manner that minimises harm to amenity.
12. However, the Regulations require that decisions are made only in the interests of amenity and public safety. Consequently, although I have taken into account the above policies and guidance, which are material insofar as they seek to protect the area's amenity, they have not been a decisive consideration in my decision. I conclude that the proposal would adversely harm the amenity of the area and conflicts with the aims of the Framework as set out above.
13. I have noted the objections from Minster-on-Sea Parish Council and a local resident to the advertisements. However, in light of my findings on the main issue of the appeal, my decision does not turn on these matters.
14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR

¹ Planning Practice Guidance: Paragraph 079 Reference ID: 18b-079-20140306



Appeal Decision

Site visit made on 23 January 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2018

Appeal Ref: APP/V2255/W/17/3184720

Seabreeze Park, Marine Parade, Sheerness ME12 2BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Seabreeze Caravan Park against the decision of Swale Borough Council.
 - The application Ref 17/500929/FULL, dated 15 February 2017, was refused by notice dated 18 July 2017.
 - The development proposed is change of use and erection of 7 pairs of semi-detached 3 storey dwellings with integral garage, parking spaces and access driveway.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice refers to Policies ST3, CP1, CP4, DM14 and DM25 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP). This Plan was adopted on 26 July 2017 since the planning application was determined and supersedes the Policies also specified in the Council's decision notice from the Swale Borough Local Plan 2008. The aims of the policies are similar and so neither party has been prejudiced by this change in policy circumstances.

Main Issues

3. The main issues are the effect of the proposed development on
 - (i) the loss of a designated holiday park;
 - (ii) the character and appearance of the area including an area of designated Important Local Countryside Gap; and
 - (iii) minerals safeguarding area in which the site is located.

Reasons

Loss of a designated holiday park

4. The appeal site comprises a holiday caravan park located on the southern side of Marine Parade outside the built confines of Sheerness. The proposal would involve the removal of the existing caravans and the construction of 14 dwellings with associated access, car parking and landscaping.

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Appeal Decision APP/V2255/W/17/3184720

5. The appeal site is a designated holiday park which forms part of Swale's Principal Tourism Assets in the LP. LP Policy CP1 seeks to safeguard or enhance such assets that play an important economic role by consolidating or widening the Borough's tourism potential.
6. The appellant argues that the existing holiday park is not economically sustainable and sets out there are other such parks nearby that significantly larger, provide better facilities and have availability for tourists and caravans for sale. The appellant also argues that the current site lacks the potential for expansion and has provided a statement of accounts that set out the small marginal profits that are generated from the current business. The appellant states that given the small scale nature of the site, the availability elsewhere and the fact that most of the caravan users on the site are residents and not tourists, the loss of the site would not result in a significant loss of a tourist asset from the area.
7. I am mindful that the National Planning Policy Framework (the Framework) places emphasis upon ensuring viability and deliverability of development. However, whilst I recognise the existing park is small and lacks the facilities of other larger caravan parks nearby, I have not been supplied with any evidence or marketing particulars to clarify how and where the site has been advertised for sale. Few details have been provided to show what enquiries have been received and what comments have been made by prospective occupiers to demonstrate why there is a lack of interest in the site. In the absence of satisfactory marketing evidence or suitable alternative evidence to demonstrate the lack of demand for the continued use of the site or that it is no longer practicable, I consider that the loss of the holiday park has not been clearly justified in this case.
8. Consequently, I conclude that the proposal would involve the unacceptable loss of a designated holiday park contrary to LP Policy CP1 which seeks to manage and protect the existing tourism Assets across the Borough.

Character and appearance of the area

9. The appeal site comprises of a number of static caravans and a two storey dwelling that form part of a holiday caravan park. To the west of the site is the Ship-on Shore public house that forms part of a linear pattern of residential development further to the west and to the east is a large brick-built building at the entrance of a chalet and caravan park. On the opposite side of Marine Parade to the north are a grassed area, public car park and high concrete sea wall and to the south is an area of open land and playing fields with a canal and open fields beyond.
10. The appeal site itself is level with Marine Parade and the adjoining land to the rear and is enclosed by a mature hedge and trees along the boundaries. The static caravans that occupy the site are very low, small in scale and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding open land and playing fields.
11. The proposal would involve the construction of 14 no. three bedroomed, three storey semi-detached dwellings each with an integral garage, driveway, garden and vehicular access onto an internal access road off Marine Parade. The

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/17/3184720

contemporary style dwellings would be built on narrow plots with a vertical form with steep pitched slated coloured roofs. The external finish of the dwellings would be predominantly constructed from buff coloured brick at lower level and fibre cement cladding panels and high levels of glazing at upper level.

12. As the appeal site is outside the defined settlement confines of town of Sheerness, it is within the open countryside wherein development will not be permitted unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing, the intrinsic value, landscaping setting, tranquillity and beauty of the countryside under the terms of LP Policy ST3. The development would also fall within an area designated as Important Local Countryside Gap. LP Policy DM25 states that planning permission will not be granted for development that undermines the purpose of such gaps, which in this case is to retain the individual character and setting of the settlements of Sheerness and Minster.
13. A core principle of the Framework, together with LP Policy ST3, is to recognise the intrinsic character and beauty of the countryside in both plan making and decision taking. In visual terms, given the enclosed nature and the flat topography of the site in relation to the immediate surroundings, the appeal site provides a minimal contribution to the wider surrounding area and the proposal would have limited harm on the character of the wider landscape.
14. Nonetheless, on a more local level, the scale and layout of the proposed dwellings would nevertheless be substantial in this location and would represent a significant shift of the built up development beyond the confines of the town. The appeal site together with the adjoining areas, provide a contribution to the visual quality and the openness of the area. It adds to the character and appearance of this part of Sheerness and provides an important contribution to the setting of the town.
15. Although visually the contemporary appearance of the proposed dwellings have some merits, the proposed development would result in an increased built form on the site and the proposed encroachment into the Important Local Countryside Gap would compromise the sense of space and openness in the area. Paragraph 60 of the Framework states that it is proper to promote or reinforce local distinctiveness. In this case, the siting and layout of the proposed development dominated by the access road and car parking areas at the front of the site would not amount to a subservient form of development in this location and would fail to promote or reinforce the distinctive characteristics of this Important Local Countryside Gap.
16. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points along Marine Parade. I therefore consider that the proposed development, by virtue its scale, siting and layout, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
17. I have considered the appellant's arguments that the layout, scale and design of the proposed dwellings has been carefully considered in order to provide an innovative design solution to the development of the site that would be in keeping with the other properties in the area and takes into account the pre-application advice of the Council. The Council, however, are not bound by the

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/17/3184720

officer's pre-application advice in making their final decision. Whilst I recognise that the three storey form would not be out of keeping with the other properties in the area and the use of high quality materials, landscaping and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above. I note the appellant's comments regarding the context provided in the Framework for good design and that planning decisions should not attempt to impose architectural styling and should not stifle innovation, originality or initiative in design, but I find that the proposal does not achieve the standards the Framework seeks.

18. Consequently, I consider that, whilst there would be limited harm to the wider landscape, the loss of this designated Important Local Countryside Gap and its development for housing would have a localised harmful effect on the character and appearance of the area. The development would conflict with LP Policies ST3, CP4, DM14 and DM25. These policies seek, amongst other things, to ensure that development proposals are of a high quality design that is both well sited and of a scale, design and appearance that are sympathetic and appropriate to the site and locality. The proposal also fails to protect the intrinsic value, landscaping setting, tranquillity and beauty of the countryside and would erode and undermine the function and purpose of the Important Local Countryside Gap in this location.

Minerals safeguarding area

19. Given the site's location within a minerals safeguarding area, the Council recommend that a minerals assessment should have been submitted with the application. Policy DM 7 of the Kent Minerals and Waste Local Plan 2016 (KMWLP) sets out the circumstances in which planning applications for non-mineral development would be acceptable within a minerals safeguarding area should be permitted.
20. The appellant has indicated that, in accordance with KMWLP Policy DM 7, the appeal site is not large enough to have a significant economic mineral value. In addition, the appellant sets out that the extraction of the minerals would not be viable or practicable either on the site or in the wider area, as it would involve the acquisition of a large number of built sites with existing value and create detrimental impacts on the surrounding uses including residential properties, a nearby listed building and country park.
21. However, I am mindful of the objections from Kent County Council, as Local Mineral and Waste Planning Authority, which makes it clear the impact of development on the mineral resources within the minerals safeguarding area should be considered as part of an application. In the absence of a minerals assessment and any convincing evidence to the contrary, there is a potential that the proposal could impact on mineral resources on the site.
22. Consequently, I conclude that the proposal would be contrary to Policy DM7 of the KMWLP, that seeks, amongst other things, to prevent the sterilisation of Kent's potentially economic mineral assets and fails to demonstrate that it meets any of the circumstances where a non-mineral development would be acceptable within a minerals safeguarding area.

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4

Appeal Decision APP/V2255/W/17/3184720

Other Matters

23. I have noted the other developments in the area drawn to my attention by the appellant. However, the three storey residential development located adjacent to No. 141 Marine Parade is within the built-up confines of Sheerness and has different development characteristics to the appeal scheme. The large residential development on the land at rear of Seager Road relates to a different scale and form of development and has different locational characteristics. On the basis of the limited evidence provided I am not convinced that their circumstances are compellingly similar to the appeal proposal. I therefore accord them limited weight as precedents in this case.
24. I have considered the appellant's comments that the appeal site is brownfield. I saw from my site visit that whilst there are some permanent structures and hard surfaces, such as the existing dwelling and access road, the majority of the site is occupied by the static caravans and small grassed areas around them and as such would be excluded from the definition of Brownfield or Previously Developed Land as defined in Annex 2 of the Framework. This definition, amongst other things, specifically excludes land which is occupied by temporary structures, which is the case in this instance.
25. I have noted the Council's comments regarding the appellant's failure to submit a legal agreement to secure contributions and obligations towards health services, services/facilities provided by Kent County Council, off-site open space and strategic mitigations measures on the local Special Protection Areas and Ramsar sites in the area. However, in light of my findings on the main issues above, it is not considered necessary to look at this matter in detail, given that the proposal is unacceptable for other reasons.
26. A Grade II listed Folly building is located at the Ship-on Shore public house immediately to the west of the appeal site and the Queenborough Lines Scheduled Ancient Monument (SAM) to the south. I consider that, given the separation distance and boundary treatment between the appeal site and the listed building and SAM, the proposed development would have a neutral material impact on the setting of the listed building and SAM. The setting would therefore be preserved.
27. My attention is drawn by the appellant to the Council's Call for sites as proof of the need for additional housing in the area. However, this consultation process forms part of the Council's Local Plan evidence gathering work and as such is a matter to which I can accord limited weight in making my decision.
28. The appellant consider that the development would boost the housing supply in line with the requirements of the Framework. Whilst this may be so, based on the Council's housing supply statement¹ and appeal decisions² provided, the Council is able to demonstrate a five year supply of deliverable housing sites against the development plan requirement.
29. The appellant states that the proposal constitutes a sustainable form of development that would be well connected to existing services and facilities and provide some social and economic benefits through contributing to the supply and mix of housing and the local economy in the area, providing

¹ Statement of Housing Land Supply 2016/17 -Partial Update December 2017

² APP/V2255/W/17/3177787 and APP/V2255/W/17/3172378

Appeal Decision APP/V2255/W/17/3184720

construction jobs and would make efficient use of previously developed land in an accessible location.

30. However, while I note the appellant's view that the scheme's design and sustainable construction measures would amount to environmental benefits, I have found above that adverse impacts arising from the loss of a designated holiday park, together with the harm identified to the area's character and appearance, Important Local Countryside Gap and potential mineral resources, would conflict with the environmental and economic dimension of sustainable development. This harm, in my view, would be sufficient to outweigh the scheme's benefits when assessed against the policies in the development plan and the Framework as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework.

31. I have noted the objections raised by the occupants of the caravan park and a local business to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR



Appeal Decision

Site visit made on 23 January 2018

by **H Lock BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2018

Appeal Ref: APP/V2255/D/17/3187449

35 Springvale, Iwade, Kent, ME9 8RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Scott against the decision of Swale Borough Council.
 - The application Ref. 17/503674/FULL, dated 7 July 2017, was refused by notice dated 5 September 2017.
 - The development proposed is second storey addition to side elevation. Ground floor extension across rear elevation.
-

Decision

1. The appeal is allowed and planning permission is granted for second storey addition to side elevation and ground floor extension across rear elevation, at 35 Springvale, Iwade, Kent, ME9 8RX, in accordance with the terms of the application, Ref. 17/503674/FULL, dated 7 July 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DC/268; DC/269; DC/270; and DC/271.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, doors, voids or other openings other than those expressly authorised by this permission shall be constructed in the flank facing walls of the development hereby permitted.
 - 5) The flat roof area of the single storey rear extension shall not be used as a balcony, sitting out or similar amenity area, or roof garden.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the appeal property and the street scene.

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/17/3187449

Reasons

3. The appeal property is a semi-detached house in a residential area, and at this point in the street scene there is a degree of uniformity to dwellings as a result of their design and materials. Many properties have garages or driveways to their side, and this provides some separation and sense of space between buildings. However, there are some examples of narrower gaps, and some have garages that are linked. The appeal property and the neighbouring house, 37 Springvale, benefit from additional gaps between their shared boundary and their garages.
4. The existing garage at the appeal property is set back behind the front elevation of the house, and the proposed extension would share the same position, with a lower roof ridge height than the main house. This would accord with the guidance set out in the Council's 'Guide for Household¹' (the Guide), that an extension should be set back by at least one or two brick lengths and the roof should be set back by the same amount.
5. The Guide also seeks a gap of 2m between a first-floor extension and the side boundary, with the aim that houses should not be physically or visually linked in order to preserve the character of the area and sense of openness. In this case, the proposed gap to the side boundary at first-floor level would be less than 1 metre wide, and a similar space exists between the boundary and neighbouring garage. I acknowledge that this is below the spacing sought in the Council's guidance, but as the gaps between buildings are not uniform in the street scene, I find that this spacing would be sufficient to ensure that the sense of space would be preserved.
6. The Council's officer report advises that the extension in itself would not be harmful to the street scene, but that harm would arise from the terracing effect. However, whilst I am determining this appeal on its own merits, in the event that No.37 were to be extended, a clear separation between the properties would remain. The staggered siting of the appeal property relative to No.37 would further ensure that terracing between buildings would not arise.
7. The Council raises no objection to the rear extensions and I share its assessment.
8. I therefore conclude that the proposal would be acceptable in its impact on the character and appearance of the appeal property and the street scene, and would accord with the design aims of Policy DM 16 of the Swale Borough Local Plan², which amongst other criteria requires extensions to be of an appropriate design and quality which responds positively to the style and character of the building being extended, to be appropriately scaled, and to maintain or enhance the character of the street scene. It would also accord with the aims of the Guide.

Conditions

9. In addition to the statutory time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing dwelling, in order to safeguard the character and appearance of the development and the area. With some

¹ Planning and Development Guidelines No.5: Designing an Extension, A Guide for Householders

² Bearing Fruits 2031: The Swale Borough Local Plan 2017

Appeal Decision APP/V2255/D/17/3187449

modification to wording I have also attached the recommended conditions of the Council in the interests of the privacy of neighbouring residents.

Conclusion

10. The National Planning Policy Framework establishes a presumption in favour of sustainable development, and part of its environmental strand is to contribute to protecting and enhancing the built environment. A core planning principle of the Framework is to always seek to secure high quality design, and for the reasons given above the proposal would comply with this principle and would be sustainable development supported through the Framework. As a consequence, I conclude that this appeal should be allowed.

H Lock

INSPECTOR

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Appeal Decision

Site visit made on 23 January 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2018

Appeal Ref: APP/V2255/D/17/3185699

77 Augustine Road, Private Street North West, Minster-on-Sea ME12 2NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Adam & Nicola Ryan against the decision of Swale Borough Council.
 - The application Ref 17/503301/FULL, dated 23 June 2017, was refused by notice dated 14 September 2017.
 - The development proposed is a two storey side extension and a single storey rear extension with roof lights.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and a single storey rear extension with roof lights at 77 Augustine Road, Private Street North West, Minster-on-Sea ME12 2NB in accordance with the terms of the application, Ref 17/503301/FULL, dated 23 June 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan 1:1250, Existing Plans and Elevations Drawing no. 17/2823/1 and Proposed Plans and Elevations Drawing no. 17/2823/2A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) No additional windows, doors, voids or other openings shall be inserted, placed or formed in the side flank facing walls of the development hereby permitted.

Main Issue

2. The main issue is the effect of the proposed two storey side extension on the character and appearance of the area.

Reasons

3. The appeal property at No. 77 Augustine Road (No. 77) is a two storey detached dwelling with a single storey side extension and a detached pitched roof double garage at the side. The property is set back from the private road

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/D/17/3185699

at the front within an area with a mixed well-established residential character. There are a range of detached and semi-detached properties that provide a diverse mix of house types and variety in the design, density and appearance of the dwellings in the area.

4. The proposal would entail the construction of a first floor extension over the existing single storey side extension that would be set back from the front elevation of the property by about 3.5m. It would extend out up to the side common boundary with the adjacent detached property at No. 79 and would be stepped down below the ridge of the main house with a double dual pitched hipped roof. The proposal would also involve the construction of a new covered porched area at the front and a single storey pitched roof extension with roof lights projecting out from the rear of the appeal property.
5. Paragraph 5.0 of the Council's Supplementary Planning Guidance: Designing an Extension – a Guide for Householders 1993 (SPG) specifies a minimum set-in requirement of least 2m for a first floor side extension from the side boundary in order to give visual separation from adjoining properties and preserve the areas character and sense of openness. In this case, the proposed side extension would be set-in about 0.2m from the side boundary and would be separated from the single storey pitched roof garage at the adjacent property at No. 79 by a pedestrian access running between the properties.
6. Whilst the proposed side extension would be located in a prominent position, it would be seen in the context of the scale and two storey form of the existing dwelling and adjacent properties and the current varied architectural styles in the surrounding area. Against this backdrop, the scale, form and design of the proposed side extension, set back and stepped down, would not appear significantly out of place or excessive in relation to the built form of the host property and the relationship with the adjacent property would allow reasonable space to prevent any significant terracing effect.
7. The modest overall increase of the first floor side projection at No. 77 together with the use of matching materials and fenestrations would ensure the proposal would sit relatively unobtrusively against the two storey form of the main property. The proposal would therefore achieve an appropriate degree of subordination to the host property and as such would not detract from the architectural integrity of the host property and would limit any significant adverse impacts on the street scene.
8. Consequently, I conclude that the proposal would not result in significant harm to the character and appearance of the area. Despite a technical breach of Council's SPG on first floor side extensions, given the site specific circumstances, I conclude that the development would be consistent with Policies DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 and the Council's SPG. These policies and guidance seek, amongst other things, to ensure development and extensions are of an appropriate design and quality that respond positively to the character of the original building and surrounding area and maintains the character of the street scene.

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/D/17/3185699

Conditions

9. Having regard to the National Planning Policy Framework, and in particular paragraph 206, I have considered the conditions suggested by the Council. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. In order to protect the character and appearance of the area and safeguard the amenities of the nearby residents, I have also imposed conditions requiring matching external materials and no additional windows, doors, voids or other openings on the side flank facing walls of the development.

Conclusion

10. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

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Appeal Decision

Site visit made on 23 January 2018

by H Lock BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2018

Appeal Ref: APP/V2255/D/17/3185704

124 Athelstan Road, FAVERSHAM, Kent, ME13 8QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Michelle Taylor against the decision of Swale Borough Council.
- The application Ref. 17/502652/FULL, dated 10 May 2017, was refused by notice dated 11 July 2017.
- The development proposed is single-storey rear extension and alterations to existing front entrance and bay window.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of the planning application the Council has adopted 'Bearing Fruits 2031: The Swale Borough Local Plan 2017', and Policies E1 and E24 of the adopted Swale Borough Local Plan 2008 referred to in the reason for refusal are no longer in force.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of 122 Athelstan Road, with particular reference to outlook.

Reasons

4. The appeal property is a semi-detached house in a group comprising dwellings of the same original design and form. A characteristic feature of these properties is a two-storey rear wing that spans semi-detached pairs, creating 'L' shaped properties. This creates a 'recessed' room in the main house that looks out towards the rear garden, the outlook from which is affected to some degree by the two-storey wings on the host house and neighbouring property. The two-storey wings of the appeal property and both neighbouring houses have been extended with single storey additions. In the case of 122 Athelstan Road (No.122), this means that the rear wing projects some distance beyond its recessed room in the main building.
5. Policies DM 14 and DM 16 of the Swale Borough Local Plan¹ (LP) both include the need for new development to protect residential amenity, and to cause no significant harm to amenity and other sensitive uses. LP Policy DM 14 requires proposals to accord with adopted guidance, and the proposed rear extension would exceed by some margin the 3 metre depth advocated in the Householder

¹ Bearing Fruits 2031: The Swale Borough Local Plan 2017

Appeal Decision APP/V2255/D/17/3185704

Guide² (PDG5). Although the guide allows for some flexibility, the gap between the proposal and the shared boundary would be reasonably modest and would not be sufficient to offset the effect of the proposed depth. The combination of the proposed height and depth would appear unacceptably dominant on the outlook from No.122, and it would create an oppressive sense of enclosure.

6. I acknowledge that the proposal would not materially reduce daylight to No.122, nor affect windows of the neighbouring conservatories. However, I am not convinced that the removal of an existing side doorway would be of sufficient benefit to the privacy of all parties to justify the proposal, particularly as side-facing windows would be added closer to the shared boundary.
7. The appellant advises that the current occupant of No.122 is fully supportive of the proposal and that any future occupier of that property would be aware of the extension. However, the development should be designed to mitigate its impact on all current and future occupants of the neighbouring building, rather than requiring neighbouring occupants to make their own assessments.
8. The appellant has listed a number of extensions in the vicinity in support of the proposal. However, no details have been supplied of the size and design of the extensions, the planning permissions granted, or the reasoning behind their approval. As such, I am unable to gauge any direct comparison with the appeal proposal, and they therefore have limited weight in this appeal.
9. The rationale for the proposal is understood, but the benefits for the improved layout and accommodation of the appeal dwelling would be at the expense of the outlook from the neighbouring property. I note the appellant's view that a reduced extension depth would create a disjointed space, and that the design of the deeper extension would blend more fluidly with the property, but this would not outweigh the harm identified.
10. I am mindful that there is an option for the appellant to apply for prior approval for an extension up to 6 metres in depth³. However, it is not evident that such an application has been made or determined, and therefore for the purposes of this appeal it does not offer an implementable 'fallback' position.
11. I therefore conclude that the proposal would diminish the outlook for occupants of 122 Athelstan Road to a degree that their living conditions would be harmed, contrary to the aims of LP Policies DM 14 and DM 16 and the PDG5.

Conclusion

12. The National Planning Policy Framework establishes a presumption in favour of sustainable development, and part of its environmental strand is to contribute to protecting and enhancing the built environment. A core planning principle of the Framework includes always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings. For the reasons given above the proposal would not comply with this principle and would not be sustainable development supported through the Framework. As a consequence, I conclude that this appeal should be dismissed.

H Lock

INSPECTOR

² Planning and Development Guidelines No.5: Designing an Extension – A Guide for Householders.
³ Until 30 May 2019



Appeal Decision

Site visit made on 23 January 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2018

Appeal Ref: APP/V2255/H/17/3182912

211 High Street, Sheerness ME12 1UR

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Independent Vetcare Ltd against the decision of Swale Borough Council.
 - The application Ref 17/503047/ADV, dated 8 June 2017, was refused by notice dated 14 August 2017.
 - The advertisement proposed is for 1 x projecting sign.
-

Decision

1. The appeal is allowed and express consent is granted for the display of 1 x projecting sign as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Procedural Matters

2. The Council issued a split decision in which express advertisement consent was granted for 1 no. fascia sign, 1 no. wall mounted sign and 1 no. other sign above the door on the eastern front elevation of the appeal property and 1 no. wall mounted lettering on the northern side elevation of the premises. It was evident from my site visit that these signs have already been erected.
3. For the avoidance of doubt this appeal relates only to the refusal by the Council of the projecting sign as set out in the final bullet point above. The Council also refused consent for 1 no. wall mounted lettering sign on the eastern front elevation of the premises but the appellant has stated that they have accepted the Council's decision on this sign and are not pursuing this reason for refusal. I have determined the appeal on this basis accordingly.

Main Issue

4. The main issue is the effect of the proposed projecting sign on the amenity of the area.

Reasons

5. The appeal property is a two storey end of terrace commercial premises used as a veterinary surgery at the junction of High Street and Victoria Road. The property is not listed or within a Conservation Area and is located within an area with a mixed residential and commercial character. A residential property

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/H/17/3182912

is situated adjacent to the site. To the north-west is a parade of shops and commercial premises some of which have fascia signs and projecting signs that are all small in scale and identify the building they relate to. To the north east is a petrol filling station with signage on the canopy and alongside the road frontage. There is, therefore, a significant amount of signage in the area, some of which is illuminated.

6. The proposed projecting sign would be located on the eastern front elevation of the appeal property and comprise of a small non-illuminated aluminium sign with vinyl graphics.
7. Paragraph 67 of the National Planning Policy Framework (the Framework) states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. However, only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment, and should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
8. The Planning Practice Guidance sets out that in assessing amenity the general characteristics of the locality should be considered, and that the scale of advertisements should be in keeping with important historic, architectural or cultural features¹.
9. Whilst the projecting sign would be located in a prominent position on the site frontage close to the main road, I do not consider that it would look out of place when compared against the existing projecting signs nearby. Its small scale non-illuminated design and the physical separation from the other signs on the frontage of the premises would help to avoid any unacceptable cumulative effect. Overall, the signage does not strike me as being excessive and would not appear out of place in relation to its surroundings. Accordingly, I am satisfied it would not result in significant harm to the character and appearance of the appeal property and the visual amenity of the area.
10. Consequently, I conclude that the projecting sign would not adversely harm the amenity of the area. The Council's decision refers to Policies CP4, DM14 and DM15 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (LP) and the Council's Supplementary Planning Guidance: The Design of Shopfronts, Signs and Advertisements 1993 (SPG). The general LP Policies CP4 and DM14 require proposals that are of a high quality design that are both well sited and of a scale, design and appearance that are sympathetic and appropriate to the site and locality. More specifically, Policy DM15 and the SPG set out, amongst other things, that advertisements should be designed in a manner that minimises harm to amenity.
11. However, the Regulations require that decisions are made only in the interests of amenity and public safety. Consequently, although I have taken into account those policies, which are material, and I conclude that the scheme would not conflict with them, they have not been a decisive consideration in my decision. As the proposal would not have a negative impact on the local environment, it would not conflict with the aims of the Framework.

¹ Planning Practice Guidance: Paragraph 079 Reference ID: 18b-079-20140306

Appeal Decision APP/V2255/H/17/3182912

Conditions

12. Having regard to the Framework, and in particular paragraph 206, I have considered the conditions suggested by the Council. Whilst I note the wording in the conditions generally accords with the Regulations standard conditions, based on the evidence before me, I consider that the Regulations standard conditions are both reasonable and necessary in this case.

Conclusion

13. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

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The Planning Inspectorate

Appeal Decisions

Site visit made on 29 January 2018

by **K R Saward Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 01 February 2018

Appeal Refs: APP/V2255/C/17/3167184 & 3167185

Amos Field, Denstroude Lane, Dunkirk, Faversham, Kent CT2 9LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Miss Philippa Watts (Appeal A) and Mr Sam Burch (Appeal B) against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 16 December 2016.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from agriculture to a mixed use comprising the use of the land for agriculture and as a caravan site for the stationing of a mobile home for storage or for the mobile home to be used residentially, including the laying of hard-surfacing specifically to facilitate this use and not for any agricultural activity occurring on the land.
- The requirements of the notice are:
 - (i) Cease the use of any part of the Land as a caravan site;
 - (ii) Remove any caravans/mobile homes from the Land;
 - (iii) Remove any hard-surfacing material from the Land used specifically to facilitate the unauthorized stationing of any caravan or mobile home.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals are allowed, and the enforcement notice is quashed.

Preliminary Matters

1. The postcode for the appeal site was given incorrectly in the enforcement notice as 'CT5 9LA'. As an appeal has been made, the appellants clearly received the notice. It will not have been invalidated due to this error. I have utilised the correct postcode above.
2. The mobile home is solely in residential use and so it is incorrect for the enforcement notice to allege any storage use of it. Therefore, the reference to storage should be deleted from the allegation. This can be done without injustice to either party.
3. The appeals proceed on ground (c) only. As one of the legal grounds of appeal, my decision rests on the application of the law to the facts. Issues concerning other matters such as alleged damage to the highway can have no bearing on my decision.

Background

4. On 6 June 2012, planning permission was granted pursuant to planning

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Appeal Decisions APP/V2255/C/17/3167184

ref: SW/11/0574 for the erection of an agricultural barn on the appeal site, being land known as 'Amos Field'. Subsequently, an application was made on 5 February 2013 to the local planning authority for a Lawful Development Certificate ("LDC") for the proposed siting of a static caravan on land at Amos Field for occupation by a person working on the barn's construction.

5. A LDC was granted on appeal¹ on 13 December 2013 for "the siting of a static caravan for the duration of implementing planning permission SW/11/0574". It was issued on the basis that the proposed use amounted to permitted development by virtue of the provisions of Article 3 and Class A of Part 5 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, ("the GPDO").
6. That class permitted the use of land as a caravan site in the circumstances specified in paragraphs 2 to 10 of Schedule 1 to the Caravan Sites and Control of Development Act 1960. Those circumstances included (at paragraph 9) caravans used on-site, or on adjoining land, for the accommodation of workers employed in carrying out building or engineering operations for which planning permission has been granted, if required. A condition of Class A is that the use is discontinued when the circumstances specified cease to exist and all caravans on the site are removed as soon as reasonably practicable.
7. Construction of a barn commenced and a static caravan was brought onto the land. Development progressed slowly. After an unsuccessful planning application to convert the barn to a residential dwelling, the land was sold in 2016 to the appellants who continued with the construction of the incomplete barn. A replacement mobile home has been brought onto the land in reliance of the LDC. The enforcement notice seeks cessation of the use as a caravan site and removal of the caravan/mobile home.
8. I understand that the mobile home had been placed near to the site entrance. It is now positioned parallel with the barn, but remains within the red line shown on the enforcement notice plan.
9. Since the issue of the LDC, the GPDO has been replaced by the Town and Country Planning (General Permitted Development) (England) Order 2015. However, it was the 1995 GPDO that was in force when the use began and there is no evidence of a material break in use before the new mobile home was brought onto the land. The 1995 GPDO therefore remains applicable. In any event, the conditions and limitations of both Orders are the same.

Reasons

10. The appeal on ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. The issue in contention is whether the use of the land for the stationing of the mobile home amounts to permitted development.
11. It is the Council's contention that the barn under construction does not accord with the amended approved plan. As such, it is maintained that the 2012 planning permission has not been implemented. In other words, it is the Council's case that the barn as built does not have planning permission.

¹ Appeal Ref: APP/V2255/X/13/2197154

Appeal Decisions APP/V2255/C/17/3167184

12. Permitted development rights relate only to lawful development (Article 3(5) of the GPDO). Even though an LDC has been granted, it is of no benefit to the appellants if it is not planning permission SW/11/0574 that is being implemented.
13. When planning permission was granted for the agricultural barn no condition was imposed to require the development to be carried out strictly in compliance with the approved plans. However, the decision notice made express reference to the "drawings received 31 May 2012". That being so, I consider drawing no 1683/03/B which is produced as the approved plan and is stamped with that date is incorporated within the permission.
14. The Council points to several differences between the barn under construction and the approved drawing, namely: increased height of the plinth, an additional door opening, creation of a first floor including staircase, installation of hard surfaced flooring and window openings in the gable ends which do not accord with the position of the louvres in the approved building.
15. The point in issue is whether there has been a material departure from the approved plan for the 2012 permission resulting in the development having been built in breach of planning control. If so, the use of the mobile home for residential purposes will not be permitted development pursuant to Class A of Part 5. Nor could it be used for other ancillary purposes because the provision on land of moveable structures required temporarily in connection with and for the duration of operations being carried out on the land under Class A of Part 4 of Schedule 2 of the GPDO also depends on the lawfulness of the development.
16. The Council acknowledges that the barn has been built in the location identified in the approved plans. The appellants contest the Parish Council's suggestion that the barn exceeds 8m in height being 1m or so higher than that approved. This conclusion was reached from scaling photographs which is not reliable. In an email exchange with the first appellant the Council indicated the ridge height exceeds that shown in the plans by around 0.5m, but it has not pursued the point in this appeal. That being so, I have no reason to believe that the height remains a concern.
17. By the time of my site visit work was still in progress and there were some notable changes since the Council issued the enforcement notice. The additional door opening had been bricked up. Instead of windows, there was a small louvre vent in each gable end, which appeared to correspond with the size and style shown in the approved drawing albeit at a different height.
18. The appellants submit that the drawings show only the visible height of the plinth and this will be in accordance with the plans once completed. I saw on site that horizontal timber cladding was in the process of being affixed to some parts of the building which had reduced the extent of visible brick plinth. It is likely to be reduced further once the adjacent land is brought up to finished ground level.
19. Externally, the building works undertaken thus far appear to correspond largely with the approved plan. Where there are deviations they appear to be minor in terms of their nature and impact on the appearance of the barn. The appellants are clearly still working on it to bring the barn back in line with the planning permission. The approved plan does not give any indication of what the flooring would be formed. It must have been anticipated that there would

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decisions APP/V2255/C/17/3167184

be some form of base. There is a single floor plan illustrating three bays. Wooden steps have been built in the centre bay leading to a partially built second floor. Whether or not the works undertaken internally need planning permission is not a matter before me. They do not affect the external appearance and I note that no condition was imposed to restrict the works going on inside.

20. I conclude that the works for the construction of the barn are those for which planning permission was granted by the Council pursuant to planning ref: SW/11/0574. Even though works may have been slow, the barn is not complete. The appellants claim to be occupying the mobile home whilst engaged in building operations in furtherance of the grant of planning permission. There is no evidence to indicate to the contrary. It follows that the use of the land for the stationing of the mobile home amounts to permitted development under the provisions of Article 3 and Class A of Part 5 of Schedule 2 to the GPDO. Once the barn is finished, the appellants will need to remove the mobile home as required by condition A.1. of Class A.
21. Accordingly, the matters alleged in the notice do not constitute a breach of planning control. The appeals on ground (c) succeed.

Formal Decisions

Appeals A and B

22. It is directed that the enforcement notice be corrected by the deletion of the words "for storage or for the mobile home" in paragraph 3. Subject to this correction the appeals are allowed and the enforcement notice is quashed.

KR Seward

INSPECTOR



Appeal Decision

Hearing Held on 17 October 2017

Site visit made on 17 October 2017

by Lesley Coffey BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 February 2018

Appeal Ref: APP/V2255/W/17/3176865

Windmill Farm, Yaughar Lane, Hartlip, Sittingbourne, ME9 7XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs G Cooper against the decision of Swale Borough Council.
 - The application Ref 16/505491/FULL, dated 27 June 2016, was refused by notice dated 31 January 2017.
 - The development proposed is the renewal of temporary planning permission SW/13/0277 "Change of Use for the siting of two mobile homes; the erection of two utility blocks; and associated fencing, parking and landscaping for use by a Gypsy family.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of two mobile homes; the retention of the existing utility block; and the erection of an additional utility block; and associated fencing, parking and landscaping for use by a Gypsy family at Windmill Farm, Yaughar Lane, Hartlip, Sittingbourne, ME9 7XE in accordance with the terms of the application, Ref 16/505491/FULL, dated 27 June 2016, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal seeks to continue the use of the site for the siting of two mobile homes. Planning permission for the use was first granted in 2013 for a temporary period of three years. An application to continue the use of the site was refused in January 2017 and that application is the subject of this appeal.
3. The Swale Borough Local Plan was adopted by the Council on 26 July 2017 and the policies within it supersede those referred to in the Council's decision. I have considered the appeal accordingly.
4. The appellant is a Romani gypsy. Evidence was submitted to show that the family travel for work for a significant part of the year. They also attend various fairs and horse fairs. The Council accepts that the appellant and her family have gypsy status for the purposes of Planning Policy for Traveller Sites (PPTS) and having regard to the submitted evidence I have no reason to disagree.

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Appeal Decision APP/V2255/W/17/3176865

Main Issues

5. I consider the main issues to be:
- Whether occupants of the site would have satisfactory access to services; and
 - Whether any harm would be outweighed by other material considerations including the general need for and supply of gypsy sites, the accommodation needs and personal circumstances of the appellants, to lead to the grant of a permanent planning permission.

Reasons

6. The appeal site is located on Yaugher Lane, south of Hartlip. It is accessed via a private drive and is occupied by 2 static caravans/mobile homes and a day room. The previous consent included a second day room/utility block but this has not yet been constructed. There is a parking area to the eastern end and a hedgerow has been planted along the northern boundary with the adjacent field.
7. Policy DM10 of the Local Plan sets out the Council's policy in relation to the provision of gypsy and traveller sites. Part B states that the Council will grant planning permission for sites subject to a number of criteria. The Council consider that the proposal would conflict with criterion 1, which requires proposals to accord with the settlement hierarchy at ST3. Policy DM10 allows for some exceptions to criterion 1, including where there are exceptional mitigating and/or personal circumstances and where the appellant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality.
8. Policy ST3 adopts a hierarchical settlement strategy and directs most development to Sittingbourne, followed by Faversham and Sheerness. In locations within the open countryside, such as where the appeal site is located, development is not permitted unless it is supported by national planning policy.
9. Policy DM14 sets out general development criteria. The Council consider that the proposal would fail to comply with criteria 1 and 10. Criterion 1 requires proposals to comply with other development plan policies. Criterion 10 requires safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.
10. PPTS provides the national planning policy context for traveller sites. Although it does not preclude gypsy and traveller sites within the countryside it states that local planning authorities should very strictly control new traveller sites within the open countryside that is away from existing settlements. Whilst PPTS seeks to promote more private sites and reduce the number of unauthorised developments/ encampments, it also states that such sites should be in an appropriate location and to have due regard to the protection of the environment.
11. The proposal does not accord with the settlement strategy at policy ST3. The appeal site is relatively small and is not visible from Yaugher Lane. There are more open views towards the north, but these are a considerable distance away. In views from the A2 the appeal site is almost indiscernible due to the distance and intervening trees and other vegetation. The appellant has planted a mixed hedgerow along the northern site boundary, and although this has

<https://www.gov.uk/planning-inspectorate>

2

Appeal Decision APP/V2255/W/17/3176865

established, at the present time it provides only a limited degree of screening. As it matures it would mitigate any limited views of the mobile homes from the surrounding countryside. The Council is satisfied that there would be no significant harm to the character and appearance of the wider area and I share this view.

12. The Council considers the site to be remote from services and facilities. It contends that occupants would be reliant on the use of a private car in order to meet their day-to-day needs. The appeal site is located about 1.9km from Hartlip, which benefits from a primary school, village pub, church, and a playground. The appellant submits that the appeal site occupies a sustainable location and is close to a range of facilities at Farthing Corner motorway services. The services are located about 2km from the appeal site and can be accessed by local roads. The facilities available include a petrol station, a M&S Food store, a bakers and a WH Smith.
13. The Council acknowledged that it is common for gypsy and traveller sites to be located within the countryside, but the preference is for sites with good access to services and facilities, rather than more remote locations such as the appeal site.
14. The appellant referred to an indicative map of accessibility to services which formed part of the evidence base for the Local Plan. The key provides average distances to a range of services in the south east. The appellant submitted details of the distance of the appeal site from a range of facilities and these are generally lower than average distances shown on the accessibility map.
15. The appellant stated that the facilities at the motorway services are accessible by a PROW across the fields and therefore occupants of the site would not necessarily be reliant on the use of a car. Whilst walking across the fields may be an option on some occasions, there will be many times when it is not suitable due to weather or the time of day. The roads in the vicinity of the appeal site are generally narrow and unlit and therefore are not likely to be attractive to pedestrians. I therefore consider that residents of the site would be reliant on the use of a car to meet their day-to-day needs and to access many services including the school. However, the site is located about 4 km from Newington and Rainham, both of which have a range of shops and services and therefore the journeys would not be particularly long.
16. I agree with the Council that the motorway services are unlikely to meet the day-to-day needs of the family due to the limited range of goods available and the high cost of goods at such outlets. Moreover, the use of these services would be likely to involve the use of a car for many of the trips. Nevertheless the proximity of the services would allow the family to meet some of their needs close to the appeal site.
17. I therefore conclude that whilst the occupants of the site would be able to access some services, they would be largely reliant on the use of the car and in this regard the proposal would not comply with Policies ST3 and DM10 of the Local Plan.

Need for Sites

18. The Gypsy and Travelers Accommodation Assessment (GTAA) published in 2013, identified a need for 85 pitches for the period 2013 - 2031. It formed

<https://www.gov.uk/planning-inspectorate>

3

Appeal Decision APP/V2255/W/17/3176865

part of the original evidence base for the Local Plan. Following revisions to PPTS in August 2015, the Council reviewed the GTAA in order to establish the implications of the revised definition of gypsies and travellers for pitch provision. It concluded that many of those living in Swale no longer come within the PPTS definition and consequently the need for sites was much reduced. The review found that there was a need for 61 pitches for the period up to 2031. It considered that the immediate need had been met and the balance could be met from windfall sites.

19. The Council state that since the base date of 2013 it has permitted 56 pitches and 51 of these are now completed or occupied. It considers that on the basis of the outstanding requirement for 10 pitches it has a 7.1 year supply of pitches. The appellant is critical of this figure, both in terms of the overall assessment of need and the number of pitches delivered since 2013.
20. The Council's approach to the reduction in the extent of need was endorsed by the Local Plan Inspector as a well-reasoned and pragmatic solution to ensure that the Local Plan aligned with the updated PPTS. It is not a matter for this appeal to re-visit the approach endorsed by the Local Plan Inspector. The appellant submitted an extract from a statement by Ms Heine in respect of a recent appeal at Meads Farm Elverland Lane. This explained her concerns in relation to the Council's approach and was considered by the Local Plan Inspector.
21. The 2013 GTAA found that there were about 48 private authorised sites within Swale. These accommodated 160 permanent pitches and 32 temporary pitches. There were also 7 unauthorised pitches which were not tolerated and these added to the need for sites. The GTAA found a need for 35 additional pitches for the period up to 2017/18. Of these 19 arose from temporary planning permissions due to expire in before 2017/18, and 7 were to meet the need from unauthorised development.
22. If only 19 of the 35 additional pitches required for the period up to 2017/18 were to meet the need arising from temporary pitches, it would seem that there were 13 temporary pitches where the planning permission extends beyond 2017/18. The GTAA indicates a total need for 10 pitches for the period 2017/18 – 2020/21. This would be insufficient to meet the remainder of the need arising from temporary pitches, regardless of any requirement generated by new household formation or other causes. Whilst it is possible that a temporary permission granted in 2013 or before extended beyond 2020/21, in my experience this would be very unusual. I therefore consider that it is probable that the pitch requirement for the period 2013/14 – 2020/21 exceeds the 45 pitches identified by the GTAA.
23. The appellant referred to a number of sites with temporary planning permission which were not represented in the GTAA. These include the appeal site where planning permission was first granted in July 2013. It is not shown in the GTAA as either an authorised pitch or an unauthorised pitch. Other sites include One Acre and One Half Acre at Bredgar, and the Retreat at Elverland Lane. Together these sites, including the appeal site, would add a further 6 pitches to the need assessed by the GTAA.
24. The Council's assessment of the number of pitches required was based on a review of the evidence in the GTAA. However, for the reasons given above, it would seem that the GTAA significantly under-estimates the number of pitches

<https://www.gov.uk/planning-inspectorate>

4

Appeal Decision APP/V2255/W/17/3176865

- required. Consequently, the Council's review which informed the Local Plan examination is likely to have carried these errors forward and the need for pitches is likely to be greater than the 61 assessed by the Council. I am aware that the Council is in the process of commissioning a new GTAA in conjunction with other Kent authorities. This should provide a more robust PPTS compliant assessment of need.
25. Since the base date of the GTAA the Council has permitted a total of 56 pitches; of which 51 have been implemented and are now occupied; 5 pitches are yet to be implemented and form the supply.
26. The implemented pitches include 19 at Brotherhood Wood Yard, Dunkirk. At the hearing the Council explained that the permission was for 16 permanent pitches and 3 transit pitches. Mr Jones disputes that the permission has been implemented. He contends that the site is laid out as a mobile home park and is used to accommodate workers from abroad, and therefore the permitted scheme has not been implemented. In support of this view he submitted a site survey note from Mrs Annie Gibbs and an aerial photograph of the site.
27. Mrs Gibbs recorded that the site had no gardens or play areas, and there was a single utility block on the site. In addition, the individual pitches were not defined. She was told that there were no children currently living on the site. She also noted that there were no UK nationals on the site and a number of cars had number plates from outside of the UK. The submitted aerial photograph shows a formally laid out site with one large amenity block, and few, if any, touring caravans. Mr Jones also referred to a letter to the Council from the police stating that the pitches were rented to workers from Europe.
28. There is currently an application with the Council for a layout similar to that shown on the aerial photograph submitted by the appellant. The intended use is described as a gypsy and traveller site. The Council acknowledged that at the present time the site has not been laid out in accordance with the approved plans and that the pitches were smaller than those permitted. The Council has served a Planning Contravention Notice on the owner of the site. This has been completed and the matter is currently under consideration.
29. The evidence presented to the hearing in relation to this appeal is recent and verified by more than one source. I consider it to be credible. It is more substantive than that available to the Local Plan Inspector. On the basis of the submitted evidence it would seem that the Brotherhood Wood Yard site is not currently occupied by gypsies and travellers or available to them. Indeed, on the basis of the evidence submitted to the hearing it seems doubtful that the 19 pitches relied upon by the Council were ever implemented.
30. The Council is currently investigating the situation at Brotherhood Wood Yard. The implications of its investigation are unclear at the present time, and it could take some considerable time for this matter to be resolved. Therefore the site is not available now. Due to uncertainties regarding both the current and future use of the site I do not consider that at the present time it should be included in the supply of available gypsy and traveller sites. Consequently the existing need for sites should be increased by 19 pitches. This represents a residual need for at least 24 pitches based on the GTAA requirement.

Appeal Decision APP/V2255/W/17/3176865

31. I am aware that the Brotherhood Wood Yard site was considered at the Land at Blind Mary's Lane, Bredgar¹ appeal and the Hawthorns, Greyhound Road appeal². The evidence submitted to these appeals indicated that the site was occupied by Irish Travellers and it was not excluded from the supply. It would seem that the concerns as to the manner in which the site is occupied was also brought to the attention of the Local Plan Inspector by Ms Heine. Although this matter is not explicitly addressed in her report, it would appear that the evidence before her was less extensive than that submitted to this hearing. She did however note that the plan would require an early review and this would necessitate both the need for and supply of traveller sites to be addressed soon after adoption.
32. For the reasons given above, and having regard to the evidence within the GTAA, and that submitted to the hearing, it would seem probable that the GTAA considerably underestimates the true scale of the need for pitches. Consequently, when taken together with the absence of pitches on the Brotherhood Wood Yard site the need for pitches is likely to significantly exceed that identified by the Council.
33. The evidence submitted to the hearing suggests that there is currently a supply of 5 pitches set against a need for at least 29 pitches.³ If the appellant's need for two pitches is included, as well as those at the other sites with temporary planning permission but not included in the GTAA, the residual need would increase to 35 Pitches. The pitches with temporary planning permissions identified in the GTAA, but not included in Table 11.1 of the GTAA could add to this need. Therefore the Council does not have sufficient land to provide a five year supply of pitches and the need for and supply of sites weighs in favour of the proposal.
34. I am aware that I have reached a different conclusion from the Local Plan Inspector regarding the extent of the need for pitches, however, her conclusions were based on the submitted evidence. Whilst she endorsed the approach taken by the Council in terms of its review of the GTAA, it does not seem that there was any evidence before her to suggest that the GTAA may have under-estimated the extent of the need.

Personal Circumstances of the Appellant

35. The appellant has a need for two pitches. One for herself, her husband and son, and one for her daughter Katy Davies and her family. I have had regard to the family's health situation and that adds significant weight to the need for a settled base for access to specialist health services, as well as to education.
36. The Council is sympathetic to the family's compelling personal circumstances. The majority of sites in Swale are privately owned sites and the Council does not suggest that there are other sites available to the appellants.
37. It recognises that should the appeal be dismissed and the family required to leave the site there would be no alternative to roadside camping for the family. It stated that it would not be minded to commence enforcement proceeding until Katy's health had recovered.

¹ Appeal Ref: APP/V2255/A/14/2222135

² Appeal Ref: APP/V2255/W/16/3153751

³ 10 identified by the GTAA + 19 to compensate for those at Brotherhood Woodyard)

Appeal Decision APP/V2255/W/17/3176865

38. A settled base would enable the family to access to health services, and education. This would be in the best interest of the children, particularly the new baby who may need on-going medical care. The personal circumstances of the family are compelling and add substantial weight in favour of the proposal.

Overall Balance

39. I found above that the site does not benefit from good access to services. In this respect it would not comply with the settlement hierarchy set out at policy ST3. However, criterion 1 of policy DM10 provides for exceptions where there are exceptional mitigating and/or personal circumstances and where there is no over-riding harm to the locality. The Council is satisfied that the proposal would not harm the character and appearance of the area, and for the reasons given above I take a similar view. The appellant's personal circumstances are compelling and exceptional. In the absence of a fixed base Katy Davies would be unable to access either the essential medical care she requires or benefit from the support of her family. I therefore conclude that the proposal would come within the exceptional circumstances at criterion 1a. of policy DM10. Consequently the proposal would comply with policy DM10 as a whole.

40. The need for additional pitches within Swale and the absence of alternative pitches add further weight in favour of the proposal. I therefore conclude that the proposal would comply with the development plan as a whole.

Human Rights

41. Representations were made to the effect that the human rights of the appellant and his family would be violated if the appeal were dismissed. As I have decided to allow the appeal, I do not need to deal with this matter.

Conditions

42. I have considered the conditions suggested by the Council in the light of the advice at paragraphs 203 and 206 of the National Planning Policy Framework and the Planning Practice Guidance.

43. The Council suggest a temporary condition for a period of three years due to the unsustainable location of the site. It would seem that the GTAA significantly underestimates the need for sites. At the present time there are no alternative sites available to the appellant within Swale. In order to secure an alternative private site would involve selling their existing site. I consider this would place a considerable emotional and financial burden on the family at a time when it has other more pressing priorities. Therefore in the absence of any harm to the wider area, I consider that a permanent permission is justified.

44. The occupation of the site should be limited to those gypsies and travellers who meet the definition within PPTS to ensure that the site continues to contribute to meeting the need for sites within the area. In reaching my decision I have had regard to the appellant's personal circumstances and therefore consider that the permission should be limited to the appellant and her family. In the interest of visual amenity the site should be restored once the appellant and her family vacate it.

45. I agree that the number of caravans on the site should be restricted in the interests of visual amenity. No vehicle over 3.5 tonnes should be kept on the

<https://www.gov.uk/planning-inspectorate>

7

Appeal Decision APP/V2255/W/17/3176865

site and no commercial activities should take place on the site in order to protect the character and appearance of the area. In addition, the parking and turning area should be permanently retained in the interests of highway safety.

46. Whilst I understand the Council's desire to limit the extent of light pollution, the appeal site has been occupied for a number of years and the Council has not objected to any of the existing lighting on the site. No evidence has been submitted to suggest that the appellant intends to erect additional external lighting, and therefore I consider that a condition in relation to lighting is not necessary.

Conclusion

47. For the reasons given above I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR

Appeal Decision APP/V2255/W/17/3176865

APPEARANCES

FOR THE APPELLANT:

Joseph G Jones
Joseph P Jones
Genty Cooper

FOR THE LOCAL PLANNING AUTHORITY:

Ross McCardle
Shelly Rouse

INTERESTED PERSONS:

Councillor John Wright

DOCUMENTS

- 1 Update in relation to Katy Davies health issues submitted by the appellant
- 2 Note of Annie Gibb's visit to Brotherhood Wood Yard Site submitted by the appellant
- 3 Traveller caravan count January 2017 submitted by the appellant
- 4 Aerial photograph and layout plan for Brotherhood Wood Yard site submitted by the appellant
- 5 Additional health information in relation to Katy Davies submitted by the Council
- 6 Methodology for the Swale Borough SHLAA (2009) submitted by the Council
- 7 Indicative map of accessibility to services submitted by the Council
- 8 Schedule of private gypsy sites in Swale submitted by the Council

Appeal Decision APP/V2255/W/17/3176865

Appeal Ref: APP/V2255/W/17/3176865

Schedule of conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: Gentilia Cooper, Mr Colin Davies, Mr Luke Davies, Mrs Katy Davies and Mr Stephen Hatton.
- 3) When the land ceases to be occupied by those named in condition 2 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 4) There shall be no more than 2 pitches on the overall site and on each of the 2 pitches hereby approved no more than two caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), shall be stationed at any time, of which only one caravan shall be a static caravan.
- 5) No commercial activities shall take place on the land, including the storage of materials.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) The area shown on plan 461/02E as vehicle parking and turning space shall be permanently retained and kept available at all times for the parking of vehicles.
- 8) The development hereby permitted shall be carried out in accordance with the plans 461/02E and 461/03A.

By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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