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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 |

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| 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-weighed 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.

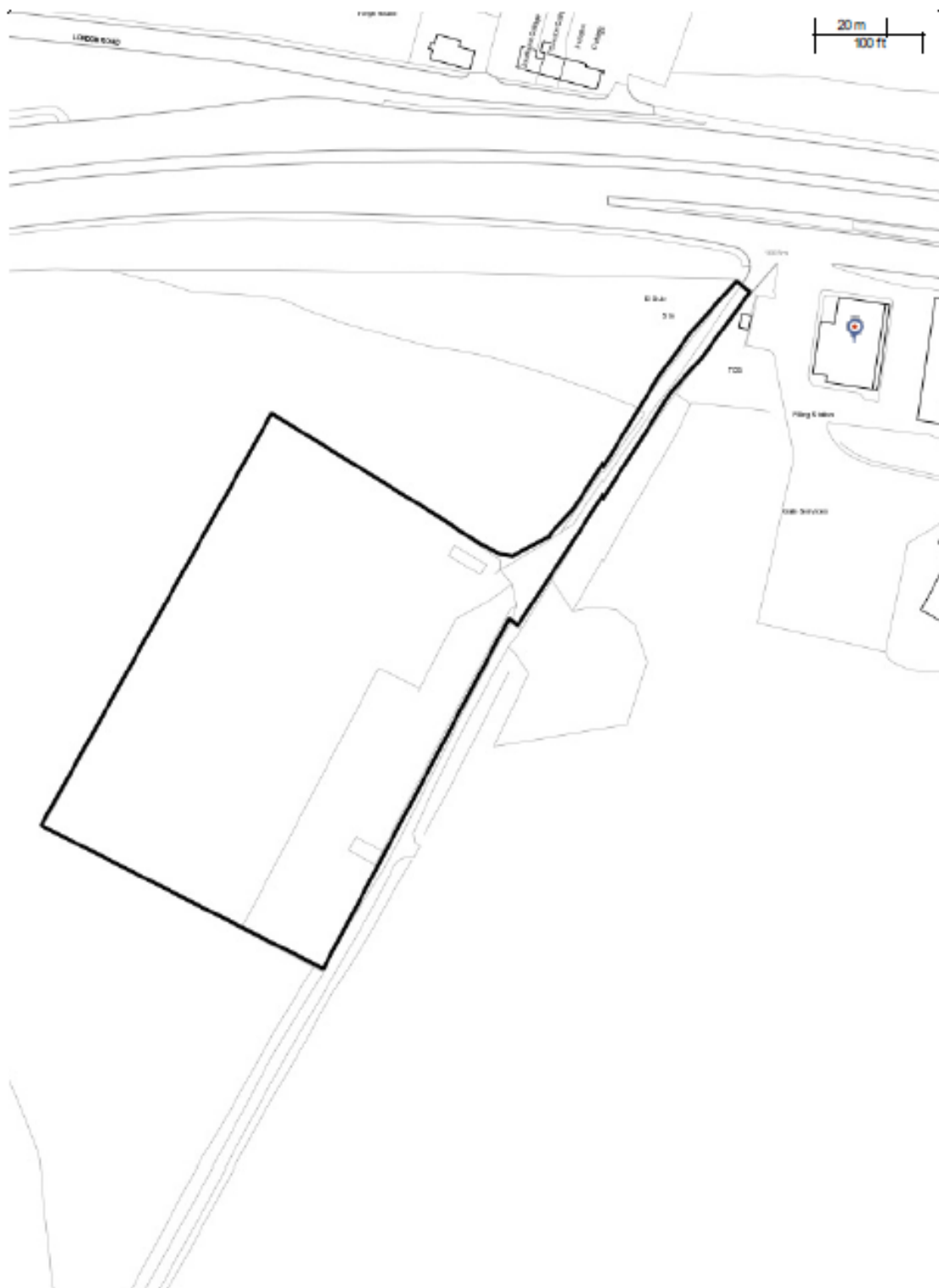
Reason: In the interests of the amenities of the area, and because the site lies in a rural location where new residential use would not normally be permitted.

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

Registered Office: 74 Park Road, Rugby, Warwickshire CV21 2QX
Tel: 01788 570574 Mobile: 07887 564652 Email: philipbrownassociates@talktalk.net
Company No: 0613 6346 VAT Registration No. 901 843 933

Philip Brown
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& DEVELOPMENT CONSULTANTS

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.

Philip Brown
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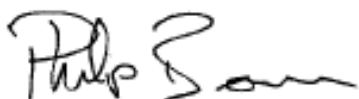
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Public sites in Kent have high occupancy levels, low turnover and long waiting lists. New site provision in Swale has been in the form of private sites: mostly small family sites, or the extension/intensification of existing family sites, whereby pitches 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

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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

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"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.

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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.

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| <p>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:</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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; |
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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.

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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.