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AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 17 December 2015

Time: 7.00 pm

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

Membership:

Councillors Mike Baldock, Cameron Beart, Bobbin, Andy Booth, Roger Clark, Richard Darby, Mike Dendor, Mark Ellen, Sue Gent, James Hall, Mike Henderson, James Hunt, Lesley Ingham, Peter Marchington, Bryan Mulhern (Chairman), Prescott (Vice-Chairman) and Ben Stokes.

Quorum = 6

Pages

- 1. Apologies for Absence and Confirmation of Substitutes
- 2. Minutes

To approve the Minutes of the Meeting held on 26 November 2015 (Minute Nos. 355 - 358) as a correct record.

Declarations of Interest

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

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

- (a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.
- (b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

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

Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

4. Deferred Item 1 - 38

To consider the following application:

15/503580/FULL – Land north of Homestall Road, Doddington

Members of the public are advised to confirm with Planning Services prior to the meeting that the applications will be considered at this meeting.

Requests to speak on these items must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328) by noon on Wednesday 16 December 2015.

5. Report of the Head of Planning

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To consider the attached report (Parts 1, 2 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 16 December 2015.

Issued on Wednesday, 9 December 2015

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

Corporate Services Director, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

17 DECEMBER 2015

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on

County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on

'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on

appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration

of which it is anticipated that the press and public will be

excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

1995

HRA Human Rights Act 1998

K&MSP Kent and Medway Structure Plan 2006

SBLP Swale Borough Local Plan 2008



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DEFERRED ITEM

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 15/503580/FULL

APPLICATION PROPOSAL

Stationing of one residential caravan, as amended by revised site location plan received 11 June 2015, and by details contained in revised Noise Impact Assessment by Acoustics Plus ref: 103005.ad.Issue2 dated 18 November 2015 including revised site layout drawing PBA2 REV.A).

ADDRESS Land North Of Homestall Road Doddington Kent ME9 0LB

RECOMMENDATION – Approve for reasons relating to the established use of the site **SUBJECT TO:** Outstanding representations (closing date 8 December 2015)

WARD Teynham & Lynsted	PARISH/TOWN COUNCIL Norton Buckland And Stone	APPLICANT Mr Patrick Nolan AGENT Philip Brown Associates	
DECISION DUE DATE	PUBLICITY EXPIRY DATE		
18/12/15	07/12/15		
FOR RELEVANT DI ANNING HISTORY DI FASE SEE ODIGINAL DEDORT			

FOR RELEVANT PLANNING HISTORY PLEASE SEE ORIGINAL REPORT (ATTACHED)

1.0 INTRODUCTION

1.01 Members will recall that this application was extensively debated at the meeting on 5 November 2015. At that time the application description read as follows;

"Change of use of land to use as a residential caravan site for two gypsy/traveler households, including stationing of three caravans, laying of hardstanding, as amended by revised site location plan received 11 June 2015, and by email dated 13 October 2015 deleting erection of amenity building from the application."

- 1.01 The submitted drawing showed the site would be occupied by a single mobile home and two touring caravans. The amenity building shown on the drawing had already been deleted from the description of the application.
- 1.02 After a long debate involving votes both to approve and to refuse the application, both of which were lost, the Committee resolved:

That application 15/503580/FULL be deferred to allow officers to liaise with the applicants about the suitability of the proposed bunding and acoustic fencing and on whether the number of caravans proposed could be lowered.

- 1.03 Since the meeting, I have discussed Members' concerns with the applicant and sought further information regarding the proposal. The application has now been formally amended to just one caravan, and more details of the specification for acoustic fencing to address noise from the M2 motorway have been submitted. Local Parish Councils and residents have been notified of the changes to the application. It is on this amended basis that the application is re-presented for Members' consideration.
- 1.04 Members will note that the previous full report is appended to this item, and that the matters of fact, planning history, planning policy and local representations are included there. This report refers only to the application in its amended form and for the above matters this report should be read in conjunction with the previous report.

2.0 PROPOSAL

- 2.01 In its current form the application proposes the stationing of one caravan on this remote rural site beside the M2. This caravan would be specified as insulated against external noise. The application also proposes hardsurfacing of the site, the erection of a 4m high acoustic fence and landscape planting around the site boundaries.
- 2.02 The key new material with this application is an updated Noise Impact Assessment report which includes the revised site layout drawing. From this I draw the following key points:
 - Only one caravan (mobile home) is now proposed, rather than three as previously
 - The site will be levelled to approximately 2.5m below the level of the motorway and a 4m high acoustic fence installed
 - It is NOT now proposed that the site will be lowered and the fence erected upon an earth bund
 - The acoustic fencing will only be on the motorway side of the site and will return into the site at either end to form noise "wings" to prevent a line of sight to traffic on the motorway
 - Planting will be carried out around the site boundaries and beyond the fence's "wings"
 - The fabric of the caravan to be installed should be capable of noise reduction of 35dB (according to the relevant British Standard for Park Homes) but suitably insulated glazing/ventilators will also be required to ensure that this level of noise reduction is achieved
 - The caravan likely to meet these noise reduction levels will be an attractive mobile home style caravan with a pitched roof, a high standard of appearance and sufficient insulation to be suitable for all year round occupation.

- Such caravans are commonly known as chalets or park homes but they are caravans (or mobile homes) in planning law terms i.e. they are transported in not more than two halves and meet the dimensions of the caravan regulations
- 2.03 Members have already considered the unusual planning history of the site and I have explained that the site has an Established Use for stationing of a caravan dating back to 1962 or 1963. I also explained at the previous meeting that whilst some local residents had raised the suggestion that that use had been abandoned following the re-location and subsequent death of the former owner, I could not see any case for abandonment being demonstrated here. Planning law is clear that there are four relevant tests for abandonment which include;
 - Physical condition
 - Period of non-use
 - Whether there has been any intervening use, and
 - The owner's intentions.

Bearing in mind that mere vacancy is not an indication of abandonment, I do not believe that in this case there is any evidence to point to a case of abandonment. The remains of the dilapidated caravan and other buildings remained on the site until last year; the period of non-use is far less than the up to 40 years that has previously been held not to define an abandonment; there has not been any intervening use; and there is no evidence that the original owner (now dead), the subsequent owner (who did not clear the site over several years), or the current owner/applicant (who cleared the site in preparation for re-occupation) ever intended to give up the use of the land.

2.04 Thus, the application proposes the resumption of the Established Use of the site in similar terms but with a modern refinement of acoustic fencing and an acoustically sound caravan.

3.0 REPRESENTATIONS

3.01 On receipt of the amended Noise Impact Assessment I re-notified local Parish Councils (Norton and Newnham) and local residents about the amendments to the application with a closing date for comments of 8 December. I will report any fresh comments to the meeting. Members will note that previous representations are included in the earlier report although these were submitted in relation to the application as first submitted.

4.0 BACKGROUND PAPERS AND PLANS

4.01 Papers for application 15/503580/FULL and other applications mentioned in the original report.

5.0 APPRAISAL

- 5.01 In my previous report I noted that this application has brought to light the very peculiar planning status of this land. I noted that it was established in 1970 that the land had an existing use right for stationing of a caravan. Planning permission was not needed other than as a vehicle for obtaining the necessary site licence. This situation seems to have then persisted right up until the latest planning permission granted in 1988. That personal permission has now run its course and new owners seek a new permission. I see no evidence to substantiate a case that the existing use right on the site has been abandoned at any stage.
- I made it clear to Members that it would be highly unusual to grant planning permission for this use at this location in the current policy context and I would not expect to recommend so. However, I made it clear that the right to use the site exists and has done since the 1960s, and that the granting of planning permission has been necessary due to the vagaries of the legislation. I so doing I suggested that it would be prudent to secure some form of noise mitigation in respect of the current noise levels from traffic on the M2 having regard to up-to-date noise standards. Hence the suggestion of an acoustic barrier was mine, not that of the applicant. Nevertheless, the applicant has been co-operative both in responding to Members' request to reduce the number of caravans, and in providing noise evidence and a report specifying suitable noise treatment both of the site and of the proposed caravan.
- 5.03 The caravan itself will need to be high quality caravan/mobile home and will be of the kind usually thought of as a Park Home and suitable for year round occupation. In meeting the industry British Standard for Park Homes this will provide suitable noise insulation. Acoustic window and ventilation systems will help to achieve acceptable internal noise levels. I have recommended a suitable condition below.
- As far as acoustic fencing is concerned, whereas previously the height and extent of the fencing was not known (I had recommended that these details, be required by a planning condition) it is now clear that a 4m high fence is proposed along the motorway and turning in at the ends. It is also now clear that the fence will not be set on top of an earth bund. Although the site is within the Kent Downs AONB the motorway itself is the AONB boundary so the fence will effectively run along that boundary. The site is set well below motorway level (about 2m) so the fence, which will be set behind the existing tree line, will not appear dominant from that side. From the other side the site is well off the public highway and very well screened by existing woodland. I do not consider that any reasonable objection to the fencing can be mounted on visual or landscape grounds in this position. In any case the alternative is to permit the Established Use to continue without providing any noise attenuation between the motorway and the open parts of the site. This would seem to me to be undesirable.

- 5.05 Accordingly, it seems to me reasonable for the Council to recognise this planning application as one that seeks to permit resumption of the existing use of the site sufficient for the applicant to obtain the necessary site licence to avoid being in breach of other legislation. The benefit of granting planning permission is the ability of the Council to regulate the use of the site in the public interest. In this regard I consider that conditions to control the specification of the caravan, to require acoustic screening and to require adequate drainage and landscaping arrangements, as well as limiting the number of caravans on the site, would be beneficial.
- 9.05 I do not recommend a condition restricting occupancy of the site to any individual or group or individuals as such conditions would restrict the existing use rights that the site has, and I do not believe that it matters who occupies the site. I do though, believe that by granting planning permission the Council will be providing a settled base for a family who currently have no fixed home and who can only benefit both in the short and long terms from having a fixed base with access to health and education facilities. To that extent I have not felt it necessary to come to a firm conclusion on the applicant's gypsy status, or that of his dependants, nor am I recommending that planning permission be granted for any reason based on the supply of or need for gypsy and traveller sites in the Borough.

6.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

<u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1900 as amended by the Planning and Compulsory Purchase Act 2004.

2. No more than one caravan or mobile home, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

Reasons: In the interests of the amenities of the area

3. No caravan shall be sited on the land unless it meets or exceeds the performance standard BS 3632:2005 — Residential Park Homes — Specification, and includes window systems with acoustic through frame or through wall ventilators which provide an internal noise reduction level of at least 32dB compared to outside noise levels at the site.

Reasons: In the interests of the amenities of the residents of the site.

4. Prior to the siting of any caravan on the land a scheme for the means of foul water drainage of the site shall be submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its

implementation. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

<u>Reasons</u>: In the interests of safeguarding ground water quality and to ensure that these details are approved before any caravans are stationed on the land.

5. The site shall only be used for residential purposes, and it shall not be used for any business, industrial or commercial use other than agriculture. 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.

Reasons: In the interests of the amenities of the area

6. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of the amenities of the area

7. Prior to the siting of any caravan on the land a scheme for the means of landscaping of the site shall be submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage and enhance wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. The approved scheme shall be carried out and completed in accordance with the approved timetable.

<u>Reasons</u>: In the interests of the amenities of the area and to ensure that these details are approved before any caravan is stationed on the land

8. At the same time as the Landscaping Scheme required by condition 7 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting beginning at the date of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

<u>Reasons</u>: In the interests of the amenities of the area and to ensure that these details are approved before any caravan is stationed on the land

9. Prior to the siting of any caravan on the land a 4m high acoustic fence to a specification equivalent to or exceeding the noise reduction properties of Jakoustic Barrier System fencing by Jackson Fencing shall be erected on the line shown on approved drawing PBA2 (REV.A) (including provision for wrapping the acoustic fence within the site boundary). Thereafter the acoustic fence shall be maintained in good repair at all times to ensure that its expected noise reduction levels continue to be achieved at all times.

Reasons: In the interests of the amenities of the residents of the site.

Council's approach to the application.

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

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

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

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

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

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2.4 REFERENCE NO - 15/503580/FULL

APPLICATION PROPOSAL

Change of use of land to use as a residential caravan site for two gypsy/traveler households, including stationing of three caravans, laying of hardstanding, as amended by revised site location plan received 11 June 2015, and by email dated 13 October 2015 deleting erection of amenity building from the application.

ADDRESS Land North Of Homestall Road Doddington Kent ME9 0LB

RECOMMENDATION – Approve for reasons relating to the established use of the site

WARD	PARISH/TOWN COUNCIL	APPLICANT Mr Patrick Nolan
Teynham & Lynsted	Norton And Buckland	AGENT Philip Brown Associates
DECISION DUE DATE	PUBLICITY EXPIRY DATE	
10/06/15	00/06/15	

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
NK/9/69/99/9795	Stationing of caravan	Approved by KCC on a personal basis until 31/8/1969	29/9/1968
NK/9/68/99A/9795	Renewal of temporary permission for one further year	Refused on rural policy grounds	28/1/1970
Enforcement Notice served 3/4/1970	Stationing of residential caravan	Appeal allowed on technical grounds	10/11/1970
NK/9/69/99B/9795	Renewal of permission	Granted for three years	8/5/1972
SW/75/388	Renewal of permission	Granted on personal basis for three years	20/6/1975
SW/78/415	Renewal of permission	Granted on personal basis for three years	31/5/1978
SW/81/623	Renewal of permission	Granted on personal basis for three years	11/6/1981
SW/84/605	Renewal of permission	Granted on personal basis for three years	30/8/1984
SW/87/1677	Renewal of permission	Granted on lifetime personal basis	10/2/1988

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1.0 DESCRIPTION OF SITE

- 1.01 This application relates to a small triangular site measuring 0.15ha alongside the southern boundary of the M2 motorway between Sittingbourne and Faversham. The site thus lies just within the Kent Downs Area of Outstanding Natural Beauty but well away from any local services or amenities.
- 1.02 The longest, northern, boundary of the site is with the M2 (approximately 100m) with other boundaries to deciduous woodland, one area of which includes a large highway drainage pond. Access to the site is via a narrow but well constructed short spur road off Homestall Road, at the point where the road itself has been re-built to pass under the motorway, and where it is unusually wide.
- 1.03 The site was comprehensively cleared of all above ground structures, vegetation or signs of previous occupation by the current applicant in late 2014, and some hardcore was laid over part of the site. This laying of hardcore triggered the service of a Temporary Stop Notice in October 2014 since when no further work has taken place. The site now appears as a largely flat, barren, empty piece of land with only a variety of drain covers, cesspit holes and a water tap visible. The site is thus unoccupied and the application is not retrospective.
- 1.04 The site lies at a level below that of the motorway at a point where the motorway is climbing steeply westwards out of the Newnham Valley. However, the site is not prominent from the motorway and can only be seen when travelling westwards as a fleeting glance due to intervening vegetation. Due to the woodland on other sides, the site is not prominent from Homestall Road either, although the spur road provides a clue to the fact that access is provided to some unseen premises.
- 1.05 The remnants of occupation still visible on site stem from its peculiar planning history which is itemised above. Essentially this relates to occupation of the site by a man who appears to have lived generally in caravans, was described in 1970 as somewhat nomadic, and who had been employed by the Forestry Commission, then by the District Council as a refuse collector until 1967, and then by the County Council in a highway related capacity. He also dealt in scrap metal in a small way. It also appears that the man had previously been involved in the construction of the motorway and, in or around 1962, he stationed a caravan on this left over patch of land during motorway construction. He managed to acquire the land from the Ministry of Transport in 1969.
- 1.06 When occupation of the site came to light, the County Council granted temporary personal planning permission in 1968 for stationing of a caravan on the site to allow time for the occupant to find another site. This permission included a planning condition specifically requiring the use to cease and the site to be cleared by 31 August 1969. When the site was not cleared, the County Council took enforcement action in 1970. An appeal was lodged and the Inspector recommended that, however well screened the site was "the stationing of a residential caravan on the appeal site comparatively isolated from existing development and from health and other necessary services is undesirable". The Minister of Housing and Local Government determining the appeal considered evidence on how long the caravan had been

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stationed there and concluded that, having stationing the caravan on the site in 1962 the site has already acquired existing use rights, and that planning permission was not in fact required by virtue of immunity from enforcement action. However, because at that time a site licence required a grant of planning permission, the 1968 planning application had been necessary. He ruled that although KCC had been entitled to impose planning conditions, it had been wrong for KCC to impose a condition requiring the existing immune use to cease in 1969, as that took away existing use rights; and that that planning permission had been invalid.

- 1.07 Notwithstanding acceptance of the Inspector's conclusions on planning merits, a new temporary planning permission was granted by the Minister in 1970, running until 30 April 1971. According to the above arguments, the temporary permission did not then require cessation of the use, it merely authorised it for a temporary period sufficient to allow a site licence to be granted
- 1.08 Following this decision, and in explicit recognition of the existing use rights of the land and of the occupant's personal circumstances, a series of subsequent decisions by the former District Council, and then by this Council, allowed that individual to continue to stay on the site in recognition of his personal circumstances. Importantly, these permissions did not require cessation of the use at the end of the periods involved. By 1988, the site had become known locally as the site where the hermit lived, as the occupant was very quiet and solitary after the death of his wife, and few knew that the site was occupied. In 1988 the Council finally granted a lifetime personal permission on compassionate grounds, but with a condition requiring the site to be cleared and the use to cease when the original occupant no longer lived there. A full review of the site history for this application now suggests that this restriction appears to have been an error, but one that has never so far been challenged.
- 1.09 The site was at that time partly wooded and occupied by the occupant's caravan and a series of small shed type buildings that he had erected over time. The individual concerned eventually left the site, I understand initially to be cared for in a nursing home, before dying a few years ago. No-one appears to have occupied the caravan or site in the meantime, although I would imagine that the caravan itself was very dilapidated by this time and the site very run-down. The current site owners and applicant are not related to the original occupant but I understand that the site was purchased by the applicant's grandmother in October 2014.
- 1.10 The site is now owned by the applicant's grandmother, and after a false start the correct application papers have now been served on her by the applicant.

2.0 PROPOSAL

- 2.01 This application has been amended or added to since its submission as follows.
 - Firstly, the correct ownership certificate has been served on the applicant's grandmother
 - Secondly, it has been confirmed that neither the applicant nor his grandmother own the small piece of woodland adjacent to the site, as originally

shown edged blue on the site location plan. A new site location plan has been submitted

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- Thirdly, the proposal to erect a permanent amenity building measuring 7m x 5m built of brick, tile and uPVC windows has been deleted from the application
- Fourthly, a Noise Impact Assessment report has been submitted
- Fifthly, a quotation for noise reduction fencing has been submitted
- Sixthly, details of the applicant's and his grandmother's personal and health circumstances have been submitted
- 2.02 As the application now stands, it proposes the change of use of the site for one mobile home and two touring caravans for two gypsy or traveller households, and the laying of hardstanding.
- 2.03 The application is supported by a number of documents from which I draw the following information;
 - No alteration to access are proposed
 - Drainage will be provided by an on-site treatment plant
 - Parking for 2 cars and one light goods vehicle will be provided
 - New planting is envisaged
 - There remains a need for 35 gypsy or traveller pitches in Swale
 - The site would not individually or cumulatively be of a scale out of keeping with Painters Forstal
 - No business use is proposed
 - The site is not at risk from flooding
 - Whilst the site is within the AONB it is of a small scale and set against the motorway which itself is not sympathetic to the AONB
 - The site has been used as a caravan site for many years, and occupied until at least 2007
 - The site would be occupied by the applicant, his wife and infant son, and by his grandmother
 - The proposed site occupants currently have no lawful site to stay on, but have received numerous notices requiring them to move on. Two example notices have been provided to me
 - The applicant works by building, landscaping and by distributing leaflets door to door and moves from one place to another.
 - The applicant and his wife have never had a settled base. They now have a one year old child who has missed some inoculations due to moving around, and is unable to register with a GP
 - The applicant's grandmother has significant health issues and was recently in hospital. She depends on the applicant and is in need of a settled base where she can have access to appropriate healthcare and facilities for bathing and washing clothes. Living on the roadside is compounding her health problems
 - Noise reduction fencing might cost in the region of £13,000 to erect professionally, but the applicant would do much of the labour himself with relatives helping to reduce costs
 - A professional noise quotation submitted on behalf of the applicant prices 200m of 2.4m tall highway acoustic fencing at £45,000
 - A Noise Impact Assessment report prepared for the applicant. This suggests that;

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- only the mobile home would be occupied with the two touring caravans merely stored on the site.
- that site levels will be lowered and the spoil used to create a mound alongside the motorway with an acoustic fence erected on top
- acoustic (double glazed) fenestration and ventilation for any occupied caravan will be required to protect acceptable noise levels
- the fencing must prevent any line of sight between any caravan and any M2 traffic, and the mound and fencing should wrap around the site

3.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS

Area of Outstanding Natural Beauty Maidstone AONB directive

MOD Thurnham MOD Safeguarding Directive Thurnham

MOD Thurnham MOD Safeguarding Directive Thurnham

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Exclusion Zone Thurnham, Kent

Thurnham Wind Station tHURNHAM WIND SAFEGUARDING

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 Whilst regard has been paid to all of the guidance as set out within the NPPF, 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:

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- 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;

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- 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.
- 4.05 The NPPF prioritises the safeguarding of AONBs at paragraph 115.

Planning Policy for Traveller Sites (PPTS)

4.06 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, 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
- to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
- 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)
- 4.07 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:

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- 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)
- 4.08 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)

4.09 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) hat 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). Members might like to note that the mini paragraph above was added in the 2015 re-issue of PPTS

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"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). Members might like to 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 5year 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). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

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 clouded the issue with regard to defining need. At this stage, given that the application relates to a single pitch, it is advised that the Council should consider the application in the context of the existing GTAA as set out below.

4.10 The Council has responded positively and quickly to the 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 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 is incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) have also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. A further number of pitches enjoy temporary permissions, including the current application site.

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4.11 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which will deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25th April 2014).

Saved Policies of Swale Borough Local Plan 2008

- 4.12 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 4.13 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 4.14 Within Areas of Outstanding Natural Beauty policy E9 (Protecting the Quality and Character of the Borough's Landscape) gives priority to the long term protection and enhancement of the quality of the landscape, whilst having regard to the economic and social well being of their communities. Policy E9 seeks to protect the quality, character and amenity value of the wider landscape of the Borough. Within the countryside it expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character. Protection of AONBs is a high priority in the NPPF and they are now afforded recognition in the PPTs, see below.
- 4.15 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 4.16 Policy RC7 (Rural Lanes) seeks to protect the physical features and character of rural lanes, of which Homestall Road is one.
- 4.17 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
 - 1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;

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- f) the site is not designated for its wildlife, historic or landscape importance;
- g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
- h) there is no conflict with pedestrian or highway safety;
- i) screening and landscaping will be provided to minimise adverse impacts;
- j) no industrial, retail, commercial, or storage activities will take place on the site
- k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- I) the land will not be in a designated flood risk area.
- 2. Additionally to 1, for proposals for short term stopping places:
- m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."
- 4.18 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 which itself has since been superseded by PPTS and its emphasis of a five year supply of sites and the policy can only be of limited significance to this application.

Swale Landscape Character and Biodiversity Appraisal SPD 2011

4.19 This site is within the Doddington and Newnham Dry Valleys landscape character areas as defined in the March 2011 Swale Landscape Character and Biodiversity Appraisal, areas which are seen as of high and moderate sensitivity respectively and in good condition.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 4.20 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is shortly due for examination.
- 4.21 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

4.22 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site I have considered this in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged

approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.

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- 4.23 The assessment starts with Stage 1: <u>Availabliity</u>. The site owner is in occupation of the site. Here the site scores green. This means that the site should proceed to Stage 2.
- 4.24 Stage 2: <u>Suitability/Constraints</u>. The site is not in a flood risk zone (assessment green); it is in an AONB but is very well concealed, hard by the M2 embankment and landscaping is possible (amber); it has very limited landscape impact (amber); it has no unacceptable impact on biodiversity (green); no dominating effect on settlements (green); no adverse impacts on heritage/archaeology (green); is not known to be contaminated (green); will not be subject to unacceptable noise or disturbance if properly planned (amber); has adequate access (green); but is remote and not within walking distance to any significant facilities (red). The red score means that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. It is not a site considered to be suitable for allocation as a permanent site.
- 4.25 The proposed timetable for Part 2 of the new Local Plan included production and consultation upon a preferred options document in Summer 2014 (now completed). The adoption of Part 2 of the Local Plan is currently dependent upon the successful adoption of Part 1 of the Local Plan. Should the Examination Inspector finds problems with Part 1 of the Local Plan, Officers are likely to suggest that all pitch provision matters be deferred to Part 2 to enable Part 2 of the Local Plan to progress independently of Part 1.

Five year supply position

- 4.26 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 4.27 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved

permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented

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permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then four more wholly new permanent sites have been approved. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

- 4.28 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 4.29 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners.
- 4.30 At a more local level the Council is a contributor to the Kent Downs AONB management unit which has recently published its second revision to the Kent Downs AONB Management Plan (2014 2019). This included policies SD1, SD2, SD3, SD8 and LLC1 of the Plan, which refer to the need to conserve and enhance the natural beauty of the AONB being the prime purpose of the designation, with new development respecting the area's character, quality and distinctiveness, with development that runs counter to the primary purpose of the AONB, or its distinctive landform, special characteristics or qualities being opposed.
- 4.31 The other significant issue here is the suitability of the site in terms of noise impact. The NPPG gives the following advice;

When is noise relevant to planning?

Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. When preparing local or neighbourhood plans, or taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment.

How to determine the noise impact?

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

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- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the <u>significant observed adverse effect level</u> and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.

Observed Effect Levels

- Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.
- Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.
- No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

How to recognise when noise could be a concern?

- At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.
 - As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).
 - Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

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- At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.
- This table summarises the noise exposure hierarchy, based on the likely average response.

	response.		
Perception	Examples of Outcomes	Increasing Effect Level	Action
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.	No Observed Adverse Effect	No specific measures required
		Lowest Observed Adverse Effect Level	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
		Significant Observed Adverse Effect Level	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid

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Noticeable inability to mitigate effect of psychological stress or physical very regular sleep deprivation/aving disruptive significant, medically defination-auditory	inoise leading to siological effects, e.g. wakening; loss of appetite, Adverse Effect	revent
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How can the adverse effects of noise be mitigated?

This will depend on the type of development being considered and the character of the proposed location. In general, for noise making developments, there are four broad types of mitigation:

- engineering: reducing the noise generated at source and/or containing the noise generated;
- layout: where possible, optimising the distance between the source and noisesensitive receptors and/or incorporating good design to minimise noise transmission through the use of screening by natural or purpose built barriers, or other buildings;
- using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;
- mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.

For noise sensitive developments mitigation measures can include avoiding noisy locations; designing the development to reduce the impact of noise from the local environment; including noise barriers; and, optimising the sound insulation provided by the building envelope. Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development (see the guidance on design for more information).

Are there further considerations relating to mitigating the impact of noise on residential developments?

Yes – the noise impact may be partially off-set if the residents of those dwellings have access to:

- a relatively quiet facade (containing windows to habitable rooms) as part of their dwelling, and/or;
- a relatively quiet external amenity space for their sole use, (e.g. a garden or balcony).
 Although the existence of a garden or balcony is generally desirable, the intended benefits will be reduced with increasing noise exposure and could be such that significant adverse effects occur, and/or;
- a relatively quiet, protected, nearby external amenity space for sole use by a limited group of residents as part of the amenity of their dwellings, and/or;

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• a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance).

6.0 LOCAL REPRESENTATIONS

- 6.01 Swale Footpaths Group notes that there is no footpath issue but that the site is close to the M2 and ask if the site is suitable for occupation.
- 6.02 I have received several local representations, six from individual addresses plus a set of five similar representations sent in together all with the same format. These make the following summarised points;
 - The site lies in the Kent Downs AONB which the Council has a duty to protect; caravans do not protect this nature
 - The site is high on the side of the valley, and whilst currently screened, the woods are deciduous and the woodland may be subject to coppicing
 - The Council has refused permission for stables nearby due to adverse impact on the AONB – this will have more impact
 - The applicants have shown complete disregard for the AONB by clearing the site with bulldozers
 - Trees have been illegally cleared and badgers may have been disturbed
 - The site is not in a sustainable location with no nearby amenities, schools or public transport, and close to other sites that have been found to be unsuitably located
 - No proper access, the junction is unsafe
 - Would affect views from the footpath
 - The site is alongside the M2 and extremely noisy, with a risk of air pollution
 - With only a low fence in place, children could get onto the motorway and possibly cause a fatal accident
 - This would represent an intensive use of the site which would be for two pitches
 - Would put other land at risk from urbanisation
 - Nearby houses are historic and listed
 - No permanent utility block should be permitted
 - No site notice was displayed for the required period (NOTE: A site notice was in fact displayed for the required period close to the site)
 - The application is contrary to Government guidance
 - The site is not agricultural land, but a woodland with nature conservation significance
 - We do not want to have more bad behaviour.

7.0 CONSULTATIONS

7.01 Newnham Parish Council opposes the application on grounds similar to those raised in local representations above. They add that the site fails the current site assessment test; that there is no vehicular access to the site; that there are no 2m fences or sewage treatment on the site; and that the site does not meet policy criteria for such a site.

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- 7.02 Kent Highway Services do not comment on the application
- 7.03 The Environmental Health Manager originally requested a noise report and has considered the applicant's Noise Impact Assessment report. He notes that noise levels across the site exceed recommended levels so that mitigation is required. He notes the recommendations of the report for acoustic fencing and extra sound insulation and accepts that these measures could be effective if carried out as suggested. His one concern is whether the mitigation measures will be effective if the caravans are not permanently sited.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Papers for application 15/503580/FULL and other applications mentioned above.

9.0 APPRAISAL

- 9.01 This application has brought to light the very peculiar planning status of this land. It was established in 1970 that the land had an existing right for stationing of a caravan. Planning permission was not needed other than as a vehicle for obtaining a necessary site licence. This situation seems to have then persisted right up until the latest planning permission granted in 1988. That personal permission has now run its course and new owners seek a new permission.
- 9.02 Without a doubt it would be highly unusual to grant planning permission for this use at this location in the current policy context and I would not expect to recommend so. However, what is now clear to me is that the right to use the site exists and has done since the 1960s. The granting of planning permission has been necessary due to the vagaries of the legislation and that situation still exists, albeit a Lawful Development Certificate (LDC) now has an equally supporting effect in terms of a site licence. An application for an LDC might be a way to address the current applicant's intention to occupy the site, but he has not known the site long and is not in a good position to support an LDC application with evidence.
- 9.03 Accordingly, it seems to me reasonable for the Council to recognise his planning application as one that seeks to confirm the existing use rights on the site sufficient for him to obtain the necessary site licence to avoid being in breach of other legislation. The granting of such an application also gives the Council the opportunity to impose planning conditions so long as these do not purport to take away existing use rights. As such, despite all the comments above, and regardless of what would be my very strong reservations about the principle of granting planning permission to establish such a use here so far from amenities and public services, I do not believe that the Council has the right not to grant planning permission.
- 9.04 The benefit of granting planning permission is the ability of the Council to regulate the use of the site in the public interest. In this regard I consider that conditions to require acoustic screening (which at 2.4m tall would in itself will otherwise require planning permission) and to require adequate drainage and landscaping arrangements, as well as limiting the number of caravans on the site, would be beneficial.

APPENDIX 1

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- 9.05 I am reluctant to recommend a condition restricting occupancy of the site to any individual or group or individuals as such conditions would restrict the existing use rights that the site has, and I do not believe that it matters who occupies the site. I do though, believe that by granting planning permission the Council will be providing a settled base for a family who currently have no fixed home and who can only benefit both in the short and long terms from having a fixed base with access to health and education facilities. To that extent I have not felt it necessary to come to a firm conclusion on the applicant's gypsy status, or that of his dependants.
- 9.06 In view of the comments of the Environmental Health Manager, I am pleased that a planning condition can be imposed to require acoustic treatment both of the site and of any caravan being occupied as, without this, it is clear that the noise environment of the site will pose unacceptable risks to the amenity of any legitimate site occupants. I had very real concerns that it might be unreasonable to require expensive acoustic fencing if a temporary planning permission were to be granted, but as I am now satisfied over the planning status of the site I am content that the investment in fencing etc will be appropriate. I am recommending a suitable condition.

10.0 CONCLUSION

- 10.01 This site has been occupied for the best part of 50 years without undue detriment to the area. If it were not for the age, and ultimately the death, of the original occupant the site would remain occupied today. The Council would normally have accepted a change in occupier of an established site, and as such the proposal now therefore is not really for a change in the status quo.
- 10.02 What is important to recognise is that any decision to approve this application should not be seen by anyone as a precedent for the future of any other existing temporary or potential caravan sites nearby. These will continue to be dealt with on their own merits, and as the area is very poorly served by amenities to the extent that they will not score well in relation to site assessment criteria.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

<u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1900 as amended by the Planning and Compulsory Purchase Act 2004.

2. No more than one mobile home and two touring 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 only one caravan shall be a residential mobile home.

<u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1900 as amended by the Planning and Compulsory Purchase Act 2004.

APPENDIX 1

Planning Committee Report – 5 November 2015

ITEM 2.5

3. Prior to the siting of any caravans on the land a scheme for the means of foul water drainage of the site shall be submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation. The approved scheme shall have been carried out and completed in accordance with the approved timetable.

<u>Reasons</u>: In the interests of safeguarding ground water quality and to ensure that these details are approved before any caravans are stationed on the land

4. The site shall only be used for residential purposes, and it shall not be used for any business, industrial or commercial use other than agriculture. 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.

Reasons: In the interests of the amenities of the area

5. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of the amenities of the area

6. Prior to the siting of any caravans on the land a scheme for the means of landscaping of the site shall be submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage and enhance wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. The approved scheme shall be carried out and completed in accordance with the approved timetable.

<u>Reasons</u>: In the interests of the amenities of the area and to ensure that these details are approved before any caravans are stationed on the land

7. At the same time as the Landscaping Scheme required by condition 6 above is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting beginning at the date of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the Local Planning Authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reasons: In the interests of the amenities of the area

APPENDIX 1

Planning Committee Report – 5 November 2015

ITEM 2.5

8. Prior to the siting of any caravans on the land a scheme for the provision of acoustic treatment of the site boundary with the M2 (including provision for wrapping the acoustic treatment around other site boundaries as necessary), and for the siting and acoustic treatment of any caravans to be used as living accommodation whilst on the site, shall be submitted for the written approval of the Local Planning Authority and the said scheme shall include a timetable for its implementation. The approved scheme shall have been carried out and completed in accordance with the approved timetable and thereafter the acoustic treatment of the site and the siting and specification of any caravan to be used as living accommodation whilst on the site shall maintained in accordance with the approved details, including in relation to any replacement caravan.

<u>Reasons</u>: In the interests of the amenities of the residents of the site and to ensure that these details are approved before any caravans are stationed on the land

Council's approach to the application.

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

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

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

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

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

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Agenda Item 5

PLANNING COMMITTEE – 17 DECEMBER 2015

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

TREE PRESERVATION ORDER NO 6 of 2015

ADDRESS: 30 Preston Park, Faversham, Kent. ME13 8LN

RECOMMENDATION: To confirm without modification Tree Preservation Order No 6 of 2015 for which objections have been received.

1.0 INTRODUCTION

- 1.01 The Copper Beech in question here is a mature specimen growing toward the rear garden boundary. It is approximately 18m in height with an average crown spread of 7m and a stem diameter of around 700mm when measured at 1.5m from ground level. The main trunk forks into two main stems at around 3.5m from ground level to form a broad spreading canopy.
- 1.02 In August 2015 application 15/504947/TPO to fell the Copper Beech at 30 Preston Park was submitted with the following reasons cited for removal of the tree;
 - 1. Falling seed pods & leaf husks that block gutters and drains
 - 2. Production of sticky sap on cars and windows
 - 3. Canopy casts dense shade from noon until dusk.
 - 4. Television reception to the residents of Raglans is a problem

At the time of inspection by the Council's tree consultant on 29th July 2015, the tree revealed no visual defects to suggest it is either unhealthy or unsafe. Its size and position make it a prominent feature of the area, being clearly visible from a number of surrounding public roads and footpaths.

1.03 The application was refused under delegated powers for the following reason:

The Copper Beech tree is a prominent specimen that is considered to make a positive contribution to local landscape quality and amenity. A visual inspection of the Beech carried out by the Council's Arboriculturist on the 29th July 2015

revealed no visual defects to suggest it is either unhealthy or unsafe. The Council does not consider that shading, falling leaves and seeds are sufficient reason to justify the felling of trees of perceived amenity value. On balance, it is not considered that the reasons put forward for felling outweigh the loss of amenity that would result.

Therefore, the Council does not consider that the evidence provided to support the reasons for the application are sufficiently robust to justify the proposed felling works, which would be to the detriment of local landscape quality and amenity and contrary to policy E10 of the Swale Borough Local Plan 2008, which is intended to confer protection to trees and tree cover in the area.

1.04 At the time the felling application was submitted the Beech was thought to be subject to TPO 6 of 1999 which on the Council's records showed as being confirmed by Planning Committee on 16th September 1999. Unfortunately, during the appeal process (which requires the Council to provide copies of the TPO documents for the Inspector) a signed copy of the confirmation for TPO 6 of 1999 could not be produced. Therefore, for the avoidance of doubt it was considered expedient to protect the Beech with a new order (TPO 6 of 2015) to ensure the tree remains protected and the appeal can proceed once this order has been confirmed. Accordingly, a new TPO was served to protect the tree on 16 September 2015 and the appeal is being held in abeyance until the new TPO 6 of 2015 has been confirmed.

2.0 REPRESENTATIONS

- 2.01 Objections to the new TPO have been received from the owners of 30 Preston Park within the statutory 28 days from the making of the TPO. Summary of objections:
 - Our objections are those we have set out earlier in 1999
 - The only thing that has changed since then is that the tree has grown larger, with consequent increase in danger, expense and inconvenience of living in its shadow
 - No account is taken of the tree's appearance or character which is dark and forbidding
 - No thought has been given to how much better it would be to be able to see the sky and other more aesthetically pleasing trees
 - Those sitting in judgement should look up from the regulations and take in the reality of this "amenity"
 - It is a self sown forest tree
 - It overhangs three properties
 - Branches have fallen off in high winds, and the tree might fall in such circumstances

- Gardens are partly in shade from mid-morning and fully in shade from midafternoon
- We have tried reducing the crown but the tree has grown back
- We are approaching retirement and will not be able repeat this every few years
- We think it would be appropriate to replace the beech with a traditional fruit tree

3.0 APPRAISAL

- 3.01 Under the current TPO legislation all applications made to prune or fell protected trees need to be judged on an individual basis on the reasons put forward for the works and whether those reasons have sufficient weight to justify the works in the interests of sound arboricultural management.
- 3.02 In this case, all the reasons listed above are common associated problems when living near to mature trees and, whilst it is accepted that they can be an inconvenience, they are not considered to be sufficient grounds from an arboricultural perspective to remove healthy prominent trees.
- 3.03 Therefore, I do not consider that the reasons and supporting evidence are sufficiently robust to question the validity of the order and so I recommend that TPO 6 of 2015 be confirmed without modification as per the recommendation below.
- 3.04 Confirmation of the new TPO will allow the appeal Inspector to rule on whether the tree can be felled.

4.0 RECOMMENDATION

4.01 To CONFIRM TPO 6 of 2015 WITHOUT modification

Tree Preservation Order

Town and Country Planning Act 1990

The Tree Preservation Order No.6 of 2015

30 Preston Park, Faversham, ME13 8LN

The Swale Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

This Order may be cited as Tree Preservation Order No. 6 of 2015

Interpretation

- 2.— (1) In this Order "the authority" means the Swale Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of.

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 16 day of September 2015

The Common Seal of Swale Borough Council

was hereunto affixed to this Order in the presence of-

Head of Legal Services/Authorised Officer

HG2/S007103/213519

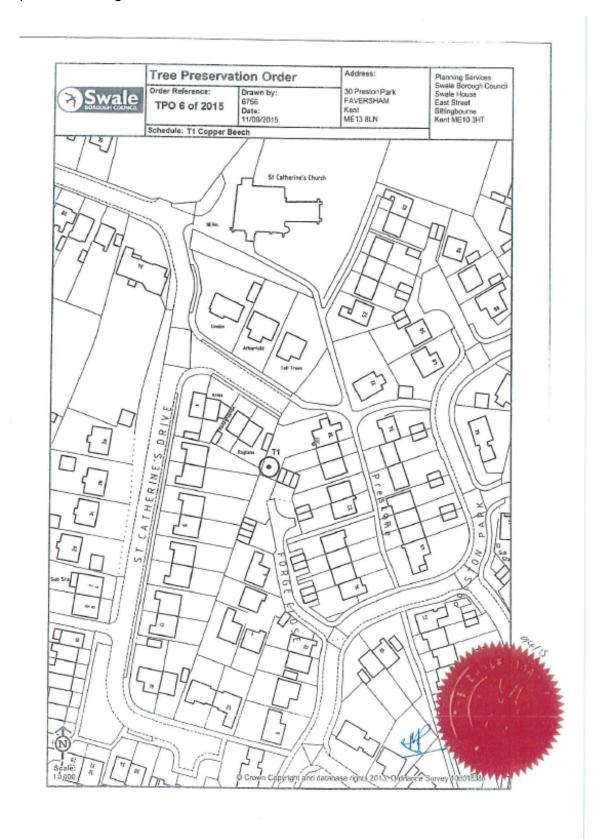
SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

Reference on map	Description	Situation
T1	Copper Beech	Growing within the rear garden of 30 Preston
		Park, Faversham



PLANNING COMMITTEE - 17 DECEMBER 2015

PART 2

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 15/506410/FULL

APPLICATION PROPOSAL

First floor side extension over existing garage, two-storey side extensions at rear, single storey rear extension, first floor front and side extensions, three dormers at front and three dormers at rear

ADDRESS 90 Scrapsgate Road Minster-on-sea Kent ME12 2DJ

RECOMMENDATION Approval

SUMMARY OF REASONS FOR RECOMMENDATION

The proposal would not give rise to serious concerns regarding residential or visual amenities and would not unacceptably harm the existing character of the streetscene.

REASON FOR REFERRAL TO COMMITTEE

Recommendation is contrary to Parish Council view

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr P Donnelly AGENT Richard Baker Partnership
DECISION DUE DATE	PUBLICITY EXPIRY DATE	
09/10/15	05/10/15	

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
15/502602/FULL	Erection of two storey side extension,	Withdrawn	16/6/2015
	single storey rear extension and creation of		
	front first floor extension.		

1.0 DESCRIPTION OF SITE

- 1.01 90 Scrapsgate comprises a simply designed chalet bungalow with a pitched roof and side facing gables. There is a flat roof garage attached to the side of the property.
- 1.02 The property enjoys substantial private amenity space, extending to approximately 33m in depth and 15m in width.

- 1.03 The frontage to the property is made up of hardstanding in front of the garage and hard landscaping in front of the remainder of the property.
- 1.04 The bungalow is set forward of the building line of the adjacent two properties. The surrounding properties in the streetscene are a variety of styles and designs including both bungalows and two storey dwellings.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for a number of extensions to the existing bungalow. The property will be extended above and to the rear of the existing garage at two storey height. On the opposite flank a first floor extension is also proposed with a front facing pitched roof element and the roof of the existing dwelling raised. A single storey extension is proposed to the rear with a depth of 3m. A canopy is proposed along the front elevation. Two dormers and one rooflight are proposed on the front elevation with a pitched roof element above the window in the projecting element. On the rear elevation three dormer windows are proposed. One rooflight is shown in the side elevation.
- 2.02 The property as existing has a width of 13.3m (including the garage) with a depth of 8.2m at its deepest point (the garage has a depth of 7m). The existing dwelling measures 2.5m to the eaves and 6.2m in overall height.
- 2.03 The resultant property would have a width which matches the existing dwelling. In terms of the proposed depth, along the south elevation it would measure 12m. At ground floor level the remainder of the property will have an approximate depth of 11m. At first floor level the property will have a width to match the proposed ground floor. The depth of the first floor will vary with the south flank, as discussed above, having a depth of 12m whilst the remainder of the first floor has a depth ranging between 7.2m and 7.9m. In terms of its height, the proposal will increase the height of the dwelling to 6.8m with an eaves height of 4m.
- 2.04 The roof of the proposed dwelling when viewed from the front elevation will be pitched with hipped ends. The property has a number of varying roof styles which are largely pitched in style, the exception being a flat roofed single storey rear extension.
- 2.05 To the front of the property the development will incorporate hardstanding to provide parking space.

3.0 PLANNING CONSTRAINTS

3.01 Environment Agency Flood Zone 3

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: E1, E19 and E24 of the Swale Borough Local Plan 2008

Adopted SPG entitled "Designing an Extension - A Guide for Householders", was adopted by the Council in 1993 after a period of consultation with the public, local and national consultees, and is specifically referred to in the supporting text for saved Policy E24 of the Local Plan. It therefore remains a material consideration to be afforded substantial weight in the decision making process.

National Planning Policy Framework (NPPF)

The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."

The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.

This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Policies E1, E19 and E24 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

5.0 LOCAL REPRESENTATIONS

- 5.01 A site notice was displayed near to the application site and surrounding neighbours were sent a letter notifying them of the application. One response has been received from the occupier of No.88 Scrapsgate, objecting to the application on the following grounds:
 - The proposed property would be very close, large and overbearing;
 - The property would block light to the side of the property which includes windows and a door;
 - The kitchen and bathroom would need to be artificially lit;
 - Would add to problems of drainage in the locality.

6.0 CONSULTATIONS

6.01 Minster Parish Council objects to the application on the grounds that "The proposal is considered overbearing due to its close proximity to the road" and that the scheme is not in keeping with the character and appearance of the streetscene.

6.02 Kent Highway Services (KHS) originally raised concern about bringing the garage door closer to the highway, reducing parking space. Amended plans were requested based upon the above comments, and the plans have been changed. I discussed these with KHS who now raise no objection to the proposal.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/506410/FULL.

8.0 APPRAISAL

The application site lies within the built up area boundary where the principle of development is accepted. Therefore I believe that the main considerations in this case are as follows:

- Impact upon residential amenities;
- Impact upon visual amenities;
- Parking provision and layout;
- Flood Risk Implications.

Residential Amenities

- 8.01 In relation to the impact upon residential amenities it is firstly noted that the host property sits forward of the two properties either side of the application site. As such, I am of the view that careful consideration should be given to the impact that the proposal would have upon these two dwellings in particular.
- 8.02 I note the objection received from the occupier of No.88 and respond as follows. No.88 has an L shaped frontage with a garage and window at ground floor level. A key consideration to take into account here is that the host property lies to the north of No.88. Therefore I do not consider that the proposal would lead to a significant reduction in sunlight received to the front windows of this property.
- 8.03 In relation to the points raised regarding the flank windows and doors, although these would suffer from a degree of loss of light by virtue of the closer proximity of the property I do not consider that these flank windows can be afforded a significant amount of weight. They are not principle windows and the current arrangement means that they already face the garage and gable wall of the existing property. Furthermore, flank windows are afforded less weight when considering impact upon neighbouring dwellings as to do so would give occupiers with flank facing windows significant rights over land that they do not own. Finally, the proposal does not extend beyond the rear elevation of No.88 and as such will have no additional impact upon the neighbouring property in this regard. As such, having balanced the points above I take the view that the proposal would not impact unacceptably upon the residential amenities of this neighbouring dwelling.

- 8.04 The proposal also includes a side facing rooflight in the south elevation, facing towards No.88. This rooflight will serve a shower room and as such would be expected to be obscure glazed. To ensure this I have included a relevant condition which requires the window to be obscured and non opening until the cill height is 1.7m above the internal finished floor level.
- 8.05 On the opposite side, the proposal will not move the existing flank wall of the dwelling any closer to No.92. I also note that No.92 has a detached garage located forward and to the side of the front elevation of this property. As such there is a gap of approximately 3m between the flank wall of the host property and No.92. I also take into account that the overall height of the dwelling will be limited to an increase of 0.6m. Although the eaves height of the dwelling will be increased I do not consider that when assessed from the perspective of No.92, due to the gap between the properties and the limited overall height increase that the impact would be unacceptable. Furthermore, the proposal would not extend beyond the rear of No.92 and therefore will have no impact upon the rear aspect or private amenity space of this neighbouring dwelling.

Visual amenities and impact upon the streetscene

- 8.06 The proposal has been amended since the original drawings were submitted which included reducing the ridge height and replacing a rear facing gable with a dormer window. The front elevation of the property will also remain in the same position as existing. When viewed from the front, the property will have a pitched roof with hipped ends and small scale, pitched roof dormer windows. As such, in an area of mixed dwelling types I take the view that the extensions as proposed would not have an unacceptable impact upon visual amenities.
- 8.07 I also note the Parish Council's comments and respond as follows. The increase in ridge height is only proposed to be by 0.6m and therefore I believe that although the scale of the property will be greater it will not be so significantly enlarged to be, in my opinion a dominant and unacceptable proposal in the context of the streetscene. I also taken into consideration that although the proximity of the dwelling to the highway is emphasised due to the two adjacent properties being set back, Scrapsgate does include some properties which are a similar distance from the highway in comparison to the application site. Furthermore, and as noted above, the front elevation of the property will be moved no closer to the highway than the current arrangement. Therefore, due to a combination of these factors I do not consider that the proposal would have an unacceptable impact upon the existing character of the streetscene.
- 8.08 Although a number of properties along Scrapsgate are detached in nature, there are instances within close proximity of the application site where properties are built up to or close to the common boundary. I do not consider that the surrounding and host property could be described as well spaced. Therefore, extending above the garage in this case would not in my opinion

create a terracing effect, significantly over and above what is already present in the streetscene.

Parking provision and layout

8.09 The amendments made to the drawings also dealt with comments from KHS in relation to the parking provision and layout at the site. Along this part of Scrapsgate it is at times difficult to clearly define the footway due to an overlap with various property frontages. The initial drawings indicated that the front elevation of the garage would be moved closer to the highway which would not allow for enough space in front of the garage without overhanging the highway. As such, an amendment has been made which retains the existing position of the front elevation of the garage. The result of this is that the parking arrangement in front of the garage allows for a situation that is no worse than the current arrangement and includes an additional parking space. I also note that the garage meets the preferred garage size guidelines as set by KHS. KHS now raise no objection to the proposal and as such I consider that the parking has been adequately dealt with.

Flood Risk

8.10 The application site lies within Flood Zone 3. I have received confirmation from the agent that the finished floor levels of the extension will be no lower than the finished floor levels of the existing property which is an acceptable approach to take. To ensure this I have included a condition to ensure that floor levels are no lower than the existing dwelling.

9.0 CONCLUSION

9.01 In overall terms, despite objections from the Parish Council and the neighbouring occupier I consider that the proposal would not give rise to serious concerns relating to either residential or visual amenities. I also take the view that the proposal would not have an unacceptable impact on streetscene and the flood risk and parking arrangements at the site have been adequately dealt with. I recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

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

<u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) The materials used in the construction of the external surfaces of the development hereby permitted shall be as detailed in the application form.

Reasons: In the interests of visual amenities.

(3) The development hereby approved shall be carried out in accordance with the following approved plans: 2485/1A and 2485/5B.

<u>Reasons</u>: For the avoidance of doubt and in the interests of proper planning.

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

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

(5) The area shown on the submitted plan as vehicle parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the new accommodation hereby permitted.

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

(6) The rooflight in the south elevation shall be obscure glazed and incapable of being opened and shall be maintained as such unless the cill height is at least 1.7m above inside floor level.

Reasons: To protect the privacy of neighbouring occupiers.

(7) The finished floor levels of the extension hereby permitted shall be no lower than the existing floor levels of the dwelling.

<u>Reasons</u>: To protect the safety of future occupiers of the development from increased flood risk.

The Council's approach to this application:

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

- Offering pre-application advice.
- Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

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

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

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

2.2 REFERENCE NO - 15/503893/FULL

APPLICATION PROPOSAL

Proposed rear elevation glazed doors and internal alterations, as amended by drawing 03 REV C received 10 November 2015

ADDRESS 9 Goldings Wharf Belvedere Road Faversham Kent ME13 7FB

RECOMMENDATION - Approve

REASON FOR REFERRAL TO COMMITTEE

Town Council Objection

WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Steve Mundin AGENT FDA Chartered Architects
DECISION DUE DATE	PUBLICITY EXPIRY DATE	
03/08/15	03/12/15 for Town Council re-consultation	

1.0 DESCRIPTION OF SITE

1.01 The property is a fairly new three storey mid-terrace town house situated within the built-up area boundary of Faversham and within the Faversham conservation area. It is one of a number of houses that had permitted development rights for alterations removed when the original planning permission was granted, hence the need for this application.

2.0 PROPOSAL

2.01 The proposal is for the removal of the present ground floor rear fenestration (a rear door and a separate pair of narrow French doors) and its replacement with a row of four glazed doors. The new arrangement would feature two central opening doors, with a non-opening door at each end. The drawings originally submitted showed four fully glazed doors which were considered inappropriate. Amended drawings show four more traditional French doors with solid panels at the lowest part of the door.

3.0 PLANNING CONSTRAINTS

Conservation Area Faversham Environment Agency Flood Zone 2

4.0 POLICY AND OTHER CONSIDERATIONS

Swale Borough Local Plan 2008: Saved policies E1, E15, E19 and E24.

5.0 LOCAL REPRESENTATIONS

5.01 One email of no objection has been received.

5.02 A letter of objection reflecting the concerns of the Town Council has also been received from a local resident.

6.0 CONSULTATION RESPONSES

6.01 Faversham Town Council raised objection to the original proposal, with reference to the form of the doors, the fact that the design was not symmetrical, and over the brick soldier course over the proposed doors.

7.0 APPRAISAL

- 7.01 in this case the property is of a good design and within a conservation area, but is still a modern building. Permitted Development rights were removed in order to control inappropriate alterations to these properties.
- 7.02 The original design submitted showed doors of a design not in keeping with the host building. However, the drawings now submitted are of a far more appropriate design, which I consider to be acceptable.
- 7.03 However, I too am of the opinion that the brick soldier course above the doors should be of a brick arch design, as seen over the windows above, and have thus thought it prudent to include condition 4 below.
- 7.04 As such, I believe that the concerns of the Town Council have been addressed via the new drawings and the brick-arch condition. The Town Council has been re-consulted on 12 November, but so far they have not responded and at this time their objection still stands as their only response to the application.
- 7.05 With regard to the issues of symmetry, it should be noted that the existing rear elevation is not symmetrical, and the new doors have merely followed this original form.
- 7.06 In view of the above, I recommend that the proposal be approved, subject to strict conformity with the conditions listed below.

8.0 RECOMMENDATION – Grant subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
 - Reasons: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reasons: In the interests of visual amenity.

(3) Detailed drawings at a suggested scale of 1:5 of all new external joinery work together with sections through glazing bars, frames and mouldings shall be submitted to and approved by the Local Planning Authority before any development takes place. The development shall be carried out in accordance with the approved details.

<u>Reasons</u>: In the interest of visual amenity and to ensure that the details are correct before commencement takes place.

(4) Notwithstanding the drawings submitted, new drawings showing a brick arch over the proposed doorway, rather than the soldier course shown on the submitted drawings, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in complete accordance with the approved drawings.

<u>Reasons</u>: In the interest of visual amenity and to ensure that the details are correct before commencement takes place.

Council's approach to the 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 case, the proposal was deemed to be acceptable subject to the amended drawings, and the receipt of drawings showing a brick arch over the doors as required by condition.

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

The conditions set out in the report may be subject to such reasonable

change as is necessary to ensure accuracy and enforceability.



2.3 REFERENCE NO - 15/509116/FULL

APPLICATION PROPOSAL

Single storey front extension and conversion of existing garage. Insertion of new windows to both side elevations and new windows/doors to the rear

ADDRESS 13 Preston Park Faversham Kent ME13 8LH

RECOMMENDATION - GRANT - SUBJECT TO: receipt of satisfactorily amended drawings being received and outstanding representations (closing date 9 December 2015)

REASON FOR REFERRAL TO COMMITTEE

Applicant is a Borough Councillor

WARD Watling	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mr Nigel Kay AGENT FDA Chartered Architects
DECISION DUE DATE	PUBLICITY EXPIRY DATE	
30/12/15	09/12/15	

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

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App No	Proposal	Decision	Date
SW/96/0189	Single storey rear extension to dwelling –	APPROVED	
SW/02/0795	SW/02/0795 Replacement of shed - APPROVED		
SW/11/0700 Replacement rear garden boundary wall – APPROVED			
15/504681/FULL Erection of rear garden fence – APPROVED			

1.0 DESCRIPTION OF SITE

1.1 No. 13 Preston Park is a modern detached property, situated within the built up area of Faversham. There is a blocked paved area to the front of the property providing off road parking for several cars, and a small grassed area. The rear garden is enclosed by an attractive brick wall which runs along the rear of the properties of Preston Park, which border the public footpath, giving pedestrian access between Preston Park and Canterbury Road.

2.0 PROPOSAL

- 2.01 This application seeks permission for conversion of existing garage to a study and store including a single storey front extension. Also proposed is the insertion of new windows to both side elevations and new windows/doors to the rear.
- 2.02 The proposed front extension would extend the existing garage forward by 2.55m at the deepest point into the proposed bay window. It is proposed to move the front door from the existing position on the side of the property to the face forward into the street. The roof of the bay would be largely flat roofed with a tiled edge and will extend over the front door creating a canopy,

measuring 2.20m to eaves, with an overall height of 2.93m. Amended drawings have been requested to alter the roof design of this part of the application to remove the flat roof element and to create a lean-to style extension which follows the roof pitch of the main house. This would result in the bay window of the proposed study to be removed. In my view this change would improve the appearance of the front elevation on the street scene at this most prominent corner of the house.

3.0 PLANNING CONSTRAINTS

None.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Swale Borough Local Plan 2008: Policy E1 (General Criteria); Policy E19 (Design), E24 (Alterations and Extensions)
SPG "Designing an Extension"

5.0 LOCAL REPRESENTATIONS

5.01 No representations have been received, but the closing date for comments is 9 December.

6.0 CONSULTATIONS

6.01 No views have yet been received from Faversham Town Council.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and drawings relating to planning reference 15/509116/FULL.

8.0 APPRAISAL

- 8.01 The main consideration for Members to determine in this case is whether the proposals are acceptable in terms of impact on neighbouring amenities, in terms of design, and in terms of visual impact on the street scene.
- 8.02 I do not consider that the proposed extension would result in any overshadowing issues as the extension does not project beyond the original building line of the host property. The new windows proposed to both the new utility room and the existing dining room on the north and south elevations will be high level, therefore avoiding any overlooking issues.
- 8.03 The conversion of the existing garage into a habitable room will not create any additional on-street parking, as the property benefits from a large paved area to the front of property, providing off-street parking.

8.04 In terms of the design, the Council's Supplementary Planning Guidance (SPG) entitled "Designing an Extension" suggests that;

"On houses with pitched roofs it is always best to have a matching pitched roof on the extension with the same type of tiles. All such two-storey extensions should have a pitched roof and front and other prominent single storey extensions are normally better for having pitched roofs."

Accordingly, subject to amended drawings being received addressing the design of the roof to the front extension, I consider that the extension proposed will meet the Council's normal design standards and compliment the appearance of the property, and that they will not have a detrimental impact on the street scene.

9.0 CONCLUSION

9.01 In view of the above and subject to amended drawings being received and subject to local views, I recommend that the application be approved

10.0 RECOMMENDATION – GRANT

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

<u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Reasons: In the interests of visual amenity.

Council's approach to the application

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

The applicant accepted suggested changes to the scheme

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

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

2.4 REFERENCE NO - 15/507606/ADV

APPLICATION PROPOSAL

Advertisement - 4 No. externally illuminated fascia signs; Non-illuminated ACM direct print panels; Non-illuminated window vinyl graphics applied internally; Non-illuminated frosted manifestation vinyl window bands (x2) and door bands (x2); Non-illuminated ATM clip frame; 4 No. non-illuminated lockable poster frames; Internally illuminated totem sign

ADDRESS 3 School Mews Iwade Kent ME9 8UW

RECOMMENDATION Split Decision –

GRANT advertisement consent for 3 No. externally illuminated fascia signs on front elevation; 1 No. ACM Direct Print Panel; 2 No Window Graphics; 1 No Window Manifestation; 1 No ATM clip frame sign

REFUSE advertisement consent for 1 No. externally illuminated fascia sign on side elevation; 4 No. lockable poster frames on side elevation; 1 No. totem sign

SUMMARY OF REASONS FOR RECOMMENDATION

The fascia signs and window displays and associated signage on the front elevation are considered to be of an appropriate scale and would not give rise to harm to residential or visual amenities. However, the fascia sign, poster frames and totem sign are prominent and intrusive features within the streetscene and would amount to an over proliferation of advertisements for the premises, causing harm to the streetscene and visual amenities.

REASON FOR REFERRAL TO COMMITTEE

The signs that are recommended for approval is a view opposite to Parish Council comments

WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN COUNCIL lwade	APPLICANT One Stop Stores Ltd AGENT Innovate Signs
DECISION DUE DATE	PUBLICITY EXPIRY DATE	
26/11/15	29/10/15	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site occupies a two storey building with an A1 retail unit at ground floor level and residential units at first floor level.
- 1.02 The site is located within the pedestrianised square at Iwade village centre and the frontage of the shop faces inwards towards the square.

1.03 The retail unit has a large frontage, measuring approximately 22m in width.

2.0 PROPOSAL

2.01 The application seeks advertisement consent for a number of signs as follows:

Front Elevation

- Fascia sign on front elevation measuring 5825mm in width, 575mm in height and 70mm in depth with blue acrylic logo and remainder being red panel with white self adhesive vinyl lettering. Externally illuminated to a level of 250 cd/m;
- Fascia sign on front elevation measuring 4990mm in width, 790mm in height and 70mm in depth with blue acrylic logo and remainder being red panel. Externally illuminated to a level of 250 cd/m;
- Fascia sign on front elevation measuring 5830mm in width, 595mm in height and 70mm in depth with blue acrylic logo and remainder being red panel with white self adhesive vinyl lettering. Externally illuminated to a level of 250 cd/m;
- ACM direct print panel measuring 1948mm x 1465mm
- Window manifestation (internal window graphic)
- 3 No. digitally printed window graphics internally applied to glazing on front elevation. Three of these are proposed and measure 2,073mm x 1,465mm, 1,316mm x 1,110mm and 670mm x 1,320mm;
- ATM clip frame, silver, measuring 300mm x 200mm;

Side Elevation

- Fascia sign measuring 5,000mm in width, 500mm in height and 70mm in depth with blue acrylic logo and remainder being red panel with white self adhesive vinyl lettering. Externally illuminated to a level of 250 cd/m;
- 4 x lockable poster frames on side elevation, silver, measuring 830mm x 575mm with a depth of 30mm.

Junction of The Street / School Lane

 Totem sign located on an existing landscaped area measuring 2600mm in height, 1240mm in width and 150mm in depth. The sign will be black, red and blue with white text. The sign will be internally illuminated to a level of 250 cd/m. 2.02 The signs form part of a re-brand of the shop from Londis to One Stop, and will all use their corporate colouring of white text on red and blue background.

3.0 PLANNING CONSTRAINTS

3.01 None relevant.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

- 4.01 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states "that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework."
- 4.02 The 12 month period noted above has now expired, as such, it is necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF.
- 4.03 This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. Policies E1, E19 and E23 are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.04 The NPPF at paragraph 67 states that "Poorly placed advertisements can have a negative impact on the appearance of the built and natural environment."

National Planning Practice Guidance (NPPG)

4.05 The NPPG also provides general guidance in relation to advertisements. It reiterates the requirement of the Local Planning Authorities to assess the impact upon amenity in relation to the local characteristics.

Development Plan:

4.06 Policies E1, E19 and E23 of the adopted Swale Borough Local Plan 2008 are relevant.

Supplementary Planning Documents:

4.07 The Council's adopted SPG entitled "The Design of Shopfronts, Signs and Advertisements" is particularly relevant.

5.0 LOCAL REPRESENTATIONS

5.01 No responses have been received.

6.0 CONSULTATIONS

6.01 Iwade Parish Council object to this application on the following grounds:

"The Village Centre was originally designed with the shops facing 'inwards' on to the square to lessen the visual impact on the surrounding roads. The design was to try and give the street scene more of a residential impression.

The 'Totem' illuminated sign to be located outside of the inner square on the corner of The Street/School Lane is totally out of keeping with the street scene and will distract drivers' attention on this junction. It will be a blot on the present landscaped garden.

The illuminated signs above the unit are out of keeping with the adjacent shops in the courtyard and will cause a light nuisance to residents of the flats above and opposite.

The illuminated signs facing the car park are out of keeping with the area and will present a 'cluttered' appearance with addition of the proposed advertising boards."

6.02 Kent Highway Services (KHS) have no objection subject to standard conditions, commenting:

"I refer to the above planning application and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- The illumination of any sign which is visible from the carriageway not to be of a flashing type.
- The proposed sign to have a minimum clearance of 2.6 metres above the footway/cycleway and not project within 0.6 metres of the carriageway edge.
- The maximum luminance not to exceed the values given in the Institution of Lighting

Engineers Technical Report Number 5 'Brightness of Illuminated Advertisements'."

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/506323/FULL.

8.0 APPRAISAL

8.01 The main considerations in this case concern the impact that the advertisements would have upon highway safety and amenity, visual and residential amenity.

- 8.02 It is firstly noted that the retail unit subject to this application is located within an existing village centre where the units would be expected to have a certain amount of signage. In this case I note that the existing signage of the retail unit appears unobtrusive with a simple banner sign on the middle section of the frontage to the unit.
- 8.03 Both the NPPF and the NPPG state that amenity considerations should be taken into account when considering advertisement applications. Policy E1 of the Local Plan makes reference to the fact that development should be well sited and of a scale, design and appearance that is appropriate to the location. Further to this policy E19 states that development proposals should respond positively to the following:
 - "...providing development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details."
- 8.04 In this case I am of the view that the unit is an established A1 use located within an established and locally well known village centre. Policy E23 of the Local Plan makes reference to avoiding an over proliferation of advertisements. As stated above there are a number of different advertisements proposed including an illuminated fascia sign on the side elevation and an illuminated totem sign some 30m away from the unit on the junction with School Lane and The Street, as well as fascia signs and window displays, amongst others, on the front elevation.
- 8.05 I am of the opinion that the fascia signs, window displays and ATM surround on the front elevation would be expected on a unit of this nature. Although the SPG states that illuminated signs will not normally be permitted outside recognised town centres in this case I take the view that this is an established village centre. Therefore I conclude that the introduction of illuminated signs onto the front facing fascia of this building would not be unacceptable.
- 8.06 However, I believe that the additional signs, namely the totem sign, the fascia sign and 4 x poster frames on the side elevation are in my opinion an unnecessary level of signage, and the illumination of the totem and side facing fascia sign would only serve to highlight the presence of these additions further. Furthermore, the application site faces inwards on the village centre and additional signage outside of the confines of the square solely related to this unit would, in my view, be excessive.
- 8.07 In relation to the totem sign in particular, I consider that due to its location, scale and illumination it would be a prominent and intrusive feature within the streetscene. Furthermore, the totem sign is located upon what is at present a landscaped area which has the impact of softening this part of the street. The addition of a totem sign in this location would introduce an incongruous feature into the streetscene which would be harmful to the character of the streetscene and visual amenities.

- 8.08 KHS have raised no objection to the application subject to conditions relating to clearance and distance from the highway / footway, illumination type and levels of illumination. Although the drawings show that at its closest level the fascia sign would be 2.41m above the pedestrianised area the sign would only be 70mm in depth. Furthermore, there is an existing fascia on the building which it would be replacing (and replacement of the vinyl banner is to be welcomed, in my opinion). As such in this case I consider that the clearance would be acceptable. The totem sign is the only sign proposed that fronts the highway edge, however, it is still approximately 2m away. However as I consider this sign to be unacceptable I have omitted the condition relating to distance from the highway / footway due to the above considerations. In relation to the illumination it would be static with a maximum luminance level of 250 cd/m and therefore I have also omitted the condition relating to the adverts not being of a flashing type. As such, I do not consider that the proposal would give rise to any serious highway safety concerns.
- 8.09 In regards to the impact upon residential amenities I have had regard to "The Institution of Lighting Engineers, Technical Report Number 5, Brightness of Illuminated Advertisements." This document splits areas into zones based upon their level of brightness, in this case I take the view that the location of the proposed advertisements would be either 'Low district brightness area' or a 'Medium district brightness area'. In any case, the level proposed is below the lowest level suggested in the more rural of the above zones. Notwithstanding this, I have included conditions relating to the levels of illumination and that the illumination shall cease outside of trading hours. As such, I consider that the proposed illuminance would not give rise to unacceptable harm to residential amenities.

9.0 CONCLUSION

9.01 In conclusion I take the view that the fascia signs on the front elevation, the digitally printed window graphics and the ATM surround are acceptable. They would in my view not impact unacceptably upon residential or visual amenities. However, the totem sign, side facing fascia sign and poster frames would by virtue of their location, detached from the application site in the case of the totem sign, in combination with its illumination would result in harm to amenity and the streetscene in my opinion.

10.0 RECOMMENDATION – Split decision:

GRANT CONSENT for the following signs;

3 No. externally illuminated fascia signs on front elevation; 1 No. ACM Direct Print Panel; 2 No Window Graphics; 1 No Window Manifestation; 1 No ATM clip frame sign

Subject to the following conditions;

- 1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- 2. No advertisement shall be sited or displayed so as to:
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- 3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- 4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- 5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
 - <u>Reasons</u>: In accordance with the provisions of Regulation 2(1) of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007
- 6. The maximum luminance not to exceed the values given in the Institution of Lighting
 Engineers Technical Report Number 5 'Brightness of Illuminated

Advertisements'."

Reasons: In the interests of visual, residential and highway amenity.

7. The signs shall not be illuminated except during the hours that the premises to which they relate are open for business.

Reasons: In the interests of visual and residential amenity.

REFUSE CONSENT for the following signs;

1. No. externally illuminated fascia sign on side elevation; 4 No. lockable poster frames on side elevation; 1 No. totem sign

For the following reason:

1) The proposed fascia sign, totem sign, and poster frames on the side elevation, by virtue of their scale, design and siting, would be prominent and intrusive features within the streetscene and would amount to an over proliferation of advertisements for the premises, giving rise to a cluttered appearance in a manner harmful to the existing character of the streetscene and the visual amenities of the area. The proposed development would therefore be contrary to policies E1, E19 and E23 of the adopted Swale Borough Local Plan 2008, and to the advice of the Council's adopted Supplementary Planning Guidance entitled "The Design of Shopfronts, Signs and Advertisements."

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

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

2.5 REFERENCE NO - 15/503681/FULL

APPLICATION PROPOSAL

Erection of 2 detached dwellings to replace existing chalet bungalow

ADDRESS 177 Wards Hill Road Minster-on-sea Kent ME12 2JZ

RECOMMENDATION Grant subject to conditions

SUMMARY OF REASONS FOR RECOMMENDATION

The site is within the built up area boundary where the principle of residential development is accepted and would in my view not give rise to serious concerns regarding visual or residential amenities or the streetscene.

REASON FOR REFERRAL TO COMMITTEE

Recommendation contrary to Parish Council view

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr And Mrs Harris AGENT Oakwell Design Ltd
DECISION DUE DATE	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE
24/07/15	24/07/15	25/6/2015

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/08/0096	Outline application for erection of 3	Approved	23.05.200
	bungalows to replace existing chalet		8
	bungalow.		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 No.177 Wards Hill Road is a detached, split level bungalow situated within a large plot in the built up area of Minster.
- 1.02 The existing property sits to the rear of three existing dwellings, known as Four Winds, Carousel and Mwalimu. The land that these dwellings are located upon used to form part of the garden to No.177. Permission was granted for the three dwellings now situated there under reference NK/4/72/7.
- 1.03 The site is accessed via a driveway located between Four Winds and No.181 Wards Hill Road which opens out into the site at the bottom of Four Winds' garden. The siting of the property means that it is hidden from Wards Hill Road, and it effectively fronts onto Clovelly Drive, although there is currently no vehicular access from that side.

- 1.04 The plot slopes downwards from Wards Hill Road to Clovelly Drive so that the existing property is located on a higher level than those properties to the south. The boundaries to the site, especially the boundary with Clovelly Drive are currently screened by well established vegetation.
- 1.05 Both Wards Hill Road and Clovelly Drive have a wide range of housing types and designs. To the north of the site are chalet bungalows with traditional bungalows either side and a terrace of three properties to the south.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the existing bungalow and the construction of two properties.
- 2.02 The properties would be located towards the southern boundary of the site, fronting Clovelly Drive with a landscaped garden and parking space to the front and private amenity space to the rear.
- 2.03 Due to the sloping nature of the site from north to south the properties will be split level, with a lower ground floor, ground floor and first floor as viewed from the front elevation and a ground and first floor as viewed from the rear.
- 2.04 Both properties, as viewed from the front will have a finished ground floor level below that of the existing ground levels. As such, when viewed from the front elevation, the property on plot 1 will measure 8.2m to the ridge from the existing lowest site level.
- 2.05 The roof of this property will have hipped ends and a portion of flat roof, there will also be a pitched roof element with front facing gable. In the front roof slope there will be two pitched roof dormers. Due to the change in site levels, on the rear elevation the roof space will effectively be the first floor level with three pitched roof elements above the first floor windows.
- 2.06 The property on Plot 1 would have a footprint of 13m in width and 12m in depth. The materials will be yellow / pale brown stock bricks at ground floor level on the front elevation and the whole rear elevation. At first floor level on the front elevation red / brown hanging tiles are proposed. The roof will be constructed from grey slate. The rear garden will be L shaped and approximately 22m in depth, 16m in width at its narrowest point and 30m in width at its widest point. The property on plot 1 will be set 1.5m in from the boundary with No.16 Clovelly Drive and 1.45m from the boundary with plot 2.
- 2.07 The property on plot 2 measures 7.7m to the ridge from the lowest natural ground level. The property will have a pitched roof with front and rear facing gables, a flat roofed dormer window on the east facing roofslope and three rooflights on the west facing roofslope.

- 2.08 Due to the change in site levels, the property would appear as a chalet bungalow from the rear but as a two storey house with rooms in the roofspace from the front elevation. The footprint of the property would measure 8m in width and 12m in depth. The materials will match those proposed for the property on plot 1. The roof will be constructed from grey slate tiles.
- 2.09 The rear garden would measure approximately 14m in depth and 10m in width. The flank wall of the dwelling would be 1.45m away from the boundary with plot 1 and on the opposite side a gap of 1m is proposed between the flank wall and the adjacent property, Lyndale.

3.0 PLANNING CONSTRAINTS

3.01 Environment Agency Flood Zone 2

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

4.01 The NPPF and the National Planning Policy Guidance (NPPG) both advocate provision of new residential development within sustainable urban locations close to local shops and services, subject to good design and no serious amenity issues being raised.

Development Plan

- 4.02 Policy E1 sets out standards applicable to all development, saying that it should be well sited and appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms;
- 4.03 Policy E19 states that the Borough Council expects development to be of high quality design and should amongst other requirements provide development that is appropriate to its context in respect of scale, height and massing, both in relation to its surroundings, and its individual details;
- 4.04 Policy H2 states that planning permission for new residential development will be granted for sites within the defined built up areas, in accordance with the other policies of the Local Plan.
- 4.05 Policy T3 states that the Borough Council will only permit development if appropriate vehicle parking is provided in accordance with Kent County Council parking standards.

5.0 LOCAL REPRESENTATIONS

- 5.01 6 letters of objection have been received (2 of these from the same address) from neighbouring occupiers. They raise the following summarised points:
 - Loss of light to the properties fronting the development on Clovelly Drive:

- Clovelly Drive already experiences parking pressure and this development will only add to it;
- Concerns regarding subsidence due to the water that runs towards the properties fronting the site;
- The development will contribute to noise due to cars turning into garages at night;
- The road will not be able to cope with lorries delivering heavy materials;
- The demolition of the bungalow and new houses built will create noise and dust.
- There is a hedgerow on the site which is full of wildlife;
- There is a fire hydrant in the hedgerow;
- Emergency services will not be able to pass along the road;
- Large amounts of rainwater flows from the existing plot towards the properties on the opposite side of Clovelly Drive, this will become worse when the shrubbery is removed and hardstanding laid;
- The houses will overlook other properties in Clovelly Drive and cause a loss of privacy;
- The proposal will cause loss of light to adjacent property;
- The existing bungalow on the site should be redeveloped;
- The adjacent properties are single storey and therefore the proposed buildings will be disproportionate to these;
- The application is tantamount to 'garden grabbing'

6.0 CONSULTATIONS

6.01 Minster Parish Council object to this application on the following grounds:

"This is over-intensive development of the site.

The bulk design and mass of such a large scale development is considered to be overbearing. It leads to concern that the visual appearance of the proposal is not in keeping with the street scene.

The impact on the residential amenities neighbouring residents might reasonably be expected to enjoy with overlooking, loss of privacy and overshadowing seen as considerable.

The inclusion of photographic evidence of two similar existing houses in Clovelly Drive is considered misleading. A more accurate picture could have been achieved by showing the proposal next to neighbouring properties rather than those further away which are built into a falling gradient plot."

6.02 **Natural England** raise no objection to the proposed development. Natural England state that the consultation documents do not include information to demonstrate the requirements Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA). In advising your authority on the requirements relating to the HRA, and to assist you in screening for the likelihood of significant effects, based upon the information provided, Natural England offers the following advice:

- The proposal is not necessary for the management of European sites;
- Subject to appropriate financial contributions being made to strategic mitigation, the proposal is unlikely to have a significant effect on these sites, and can therefore be screened out from any requirement for further assessment.

Natural England are also of the view that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the SSSIs named above have been notified. The authority is therefore advised that these SSSIs do not represent a constraint in determining this application.

- 6.03 The **Environment Agency** has stated that their Standing Advice covers developments of this type.
- 6.04 The Council's **Environmental Protection Manager** recommends an hours of construction condition, a condition relating to impact pile driving and a programme for a suppression of dust. An informative relating to the possibility of asbestos is also suggested but as this is dealt with under separate Legislation I have not included it.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence relating to planning reference 15/503681/FULL.

8.0 APPRAISAL

In my view the key considerations in the determination of this application are as follows:

- Principle of development;
- Impact upon residential amenities;
- Impact upon visual amenities and the streetscene:
- Flood implications of development in this location;
- Impact upon the SPA and Ramsar sites.

Principle of Development

8.01 The application site lies within the built up area boundary where the erection of new dwellings is acceptable in principle in accordance with both locally and nationally adopted policies. It is also taken into consideration that outline planning permission for three dwellings on this site was granted under SW/08/0096. In my view this firmly establishes the principle of residential development in this location.

Residential Amenity

- 8.02 The proposed properties will be located approximately 40m from the properties to the rear. The minimum rear to rear distance that the Council would usually expect is 21m and as such, this proposal provides almost double this and therefore I consider it to be acceptable in this regard.
- 8.03 I note that the properties either side of the application site are single storey dwellings, a point made in the objection letters received. It is also taken into consideration that the properties proposed, especially the dwelling on plot 1, are of a larger scale than those adjacent to the site. Upon receipt of the originally submitted plans I took the view that the height of both of the properties could be lowered and the overall scale of the property on plot 1 could be reduced to increase the distance between the flank wall and the common boundary with No.16 Clovelly Drive. These amendments were forthcoming and the application determined upon this basis.
- 8.04 It is important to consider in this case that the lower ground floor level of the proposed dwellings, will, as shown on the submitted drawings be set below the existing site levels at the front of the site. To ensure the finished floor levels are in accordance with these details I have included a condition requiring complete compliance with the submitted drawings (PL08 Rev A, PL09 Rev A, PL10 Rev A and PL11 Rev B) showing this. The result of this is that the ridgeline of the property on plot 1 will be 1m higher than the ridgeline of the adjacent property, No.16 Clovelly Drive. I also take into consideration that the roof is hipped and the flank elevation of the proposed dwelling will be 1.5m from the common boundary. When this is combined with the flank wall of No.16 being approximately 2.5m from the boundary I am of the opinion that the proposed property on plot 1 would by virtue of its height, design and separation distance not have an unacceptably overbearing impact upon the residential amenities of the neighbouring dwelling.
- 8.05 The neighbouring occupier of No.16 has also raised an objection based upon the loss of light to the flank windows of this property. In relation to this issue I refer back to comments contained in the paragraph above where it is considered that the overall height of the property and the separation distance from the neighbouring property was considered acceptable. As such, in the circumstances, I am of the opinion that the proposal would not give rise to unacceptable loss of light and therefore I consider that would not substantiate a reason for refusal. Notwithstanding the above, flank windows are afforded less weight when considering the impact upon neighbouring dwellings as to do so would give occupiers with flank facing windows significant rights over land that they do not own.
- 8.06 An objection was also raised from the occupier of No.16 that the proposal would cause loss of privacy to the rear garden. I note that the existing property on the site is set to the rear of the site (when viewed from Clovelly Drive) in comparison to the proposed dwellings. There is also a side facing window on this property which by virtue of the properties location faces directly towards the rear garden of No.16. As such, I consider that the

property on plot 1 as proposed, erected along a similar building line, projecting only 1m past the rear wall of No.16 and with a gap of 4m would by virtue of this location not cause unacceptable levels of overlooking or loss of privacy.

- 8.07 On the opposite side, the lower ground floor level of the property on plot 2 will also be set below the existing site level where it fronts Clovelly Drive. Therefore, due to this the ridgeline of this property will be 0.6m above the ridge height of the existing adjacent property, Lyndale. The flank wall of the property will be set 1m in from the boundary with the adjacent property whilst the flank wall of Lyndale is approximately 2.8m from the application site boundary. As such, I take the view that due to the height and separation distance between the properties, the dwelling on plot 2 would not have an overbearing impact upon the adjacent neighbouring dwelling. The property on plot two does include a side facing dormer window which would serve a staircase. Due to this I have included a condition which requires this window to be obscure glazed as to protect the privacy of the neighbouring occupiers.
- 8.08 I also note the addition of side facing windows at ground floor level. The property on plot 1 has a flank window facing No.16 Clovelly Drive but as it serves a bathroom would be expected to be obscure glazed. On the opposite side the property has a kitchen window. However, this faces towards the side elevation of the property on plot 2 which has one window serving a bathroom which would also be expected to be obscure glazed, therefore I do not consider that there would be mutual overlooking. On the opposite side there is a window serving a study. However, as this is at ground floor level I consider that views would be blocked by the boundary treatment along the common boundary between this property and the adjacent property, Lyndale.
- 8.09 The objection letters received also raise the point regarding loss of privacy for the dwellings facing the front of the proposed properties in Clovelly Drive. In response to this I take the view that the properties would be constructed in a manner addressing the street in a conventional manner. This would reflect the relationship between the existing properties in Clovelly Drive. Therefore I believe that the proposal would not give rise to any serious concerns regarding loss of privacy to the dwellings facing the frontage of the proposed properties, or any other dwellings in the vicinity.

Visual amenities and the streetscene

8.10 The property at plot 1 would have an element of flat roof, due to the depth of the property and the falling gradient on the site. A design which incorporates an element of flat roof would not usually be encouraged, however in this case I am of the opinion that views of the flat roof from public vantage points would be largely unobtainable. From the front of the property the roof would appear as being pitched with hipped ends whilst to the side and rear, views towards the flat roofed area would be largely blocked by existing residential development. As such I consider the design of the property to be acceptable. I also note a small scale flat roofed dormer window on the side elevation of the property on plot 2. Due to its scale and that it sits comfortably within the roofslope I consider this to be acceptable. The materials used in the construction of both properties will be a mixture of brick and tiles. The

properties in the surrounding area are constructed from a variety of materials and as such I consider that the materials proposed here are acceptable. However, I have included a condition which requires details of materials in the interests of visual amenities.

- 8.11 As referred to above, the existing site is fairly large with a split level bungalow situated some 21m away from the boundary with Clovelly Drive. The site currently has a large amount of vegetation marking the boundary of the site with Clovelly Drive. The properties as proposed will address Clovelly Drive in a similar fashion to the existing properties located along this road and will broadly follow the established building line of the existing dwellings. As such, I consider that the construction of dwellings in the location proposed would be in keeping with the surrounding area, which is predominately residential in nature.
- 8.12 Clovelly Drive is made up of a wide variety of property types and designs and therefore the scale and designs of the proposed development would not be out of keeping with the built form within the existing streetscene. Noting the comments of the Parish Council and objectors relating to scale ,whilst the adjacent properties are single storey dwellings this is not the only property type which makes up the streetscene. As such, in overall terms I consider that the properties would not have an unacceptable impact upon visual amenities and would not significantly harm the existing character of the streetscene.

Flood Implications

- 8.13 Flood Zone 2 crosses the application site and as stated above this type of development is covered by the Environmental Agency's Standing Advice. A Flood Risk Assessment has been submitted with the application and during the course of the application further information has been submitted as required by the Standing Advice.
- 8.14 The agent has provided details relating to surface water management which would fall under the remit of Building Regulations. Further to this the agent has provided details relating to the average site level being approximately 18m above Ordnance Datum. In addition there is no sleeping accommodation contained on the lower ground floor and there is access to upper levels via internal staircases. External doors provide means of escape from the property. I consider that details have been provided which satisfy the Environment Agency's Standing Advice for developments of this type and as such I do not consider that the proposal introduces an unacceptable flood risk to the occupants of the dwelling. To ensure this I have included a relevant condition.

Impact upon SPA and Ramsar sites

8.15 Natural England have suggested that developer contributions are required for off site mitigation of the impacts of new residential developments on the nearby SPA and Ramsar sites. However, as set out in the Habitat Regulations Assessment below, that whilst mitigation could be provided by way of developer contributions, this is not considered appropriate for developments under 10 dwellings. The cost of mitigation will be met by developer contributions on developments over 10 dwellings. In view of this it is not considered that the development will have a harmful impact on the special interests of the SPA and Ramsar sites.

Other Matters

- 8.16 Of the objection letters received, all but one of them raise parking as a concern. The property on plot 1 has two frontage parking spaces indicated as well as a garage space. Whilst plot 2 has one frontage parking space indicated with a garage. I note that although the garage space of the property on plot 2 is slightly below the KCC preferred size, I believe that a width of 3m would still be usable and as such consider that parking has been adequately dealt with. Furthermore, I also note that there will be landscaping to the front of the dwellings, details of which will be secured by condition. As such, this will allow for the frontage parking spaces to be partially screened from public vantage points.
- 8.17 In response to the other concerns raised I make the following points. I do appreciate that the existing site contains a large amount of vegetation and wildlife may be present. However, there is separate legislation that deals with the protection of wildlife and therefore I believe this matter requires no further elaboration. In relation to noise and dust, I have included relevant conditions which are imposed to protect the amenities of neighbouring occupiers. Furthermore, the flood risk of the site has been dealt with above and the issue of subsidence is not a material planning consideration.

9.0 CONCLUSION

9.01 I recognise that there are local concerns regarding the nature and likely impacts of the proposed development. I also recognise that at the current time the site is of a largely verdant character with the existing property set some distance back from the boundary with Clovelly Drive. However, in my view, the proposal as amended, with a reduced ridge height and the ground finished floor level sitting below the existing site level would introduce two dwellings into an existing built up area, close to local amenities which would not unacceptably harm the streetscene, visual amenities or residential amenities. Matters relating to flood risk and the impact upon the SPA and Ramsar have also been adequately dealt with. I recommend that planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

<u>Reason</u>: 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 hereby permitted shall take place in complete compliance with the following drawings: PL03 Rev A; PL04 Rev A; PL05 Rev A; PL06 Rev A; PL07 Rev A; PL08 Rev A; PL09 Rev A; PL10 Rev A; PL11 Rev B; PL13.

<u>Reason</u>: For the avoidance of doubt and in the interests of proper planning

No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

<u>Reason</u>: In the interest of promoting energy efficiency and sustainable development.

4) Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

<u>Reason</u>: In the interest of visual amenity and to ensure that such matters are agreed before work is commenced.

5) No development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity,), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

<u>Reason</u>: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

All hard and soft 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.

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

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

8) The area shown on the submitted plan as vehicle parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or reenacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling hereby permitted.

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

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

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

10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

11) No impact pile driving in connection with the construction of the development shall take place on the site on any Saturday, Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0900 - 1700 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

12) The commencement of the development shall not take place until a programme for the suppression of dust during the demolition of existing buildings and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

13) Adequate precautions shall be taken during the period of construction to prevent the deposit of mud and/or other debris on the public highway.

Reason: In the interests of highway safety and convenience.

14) The development hereby approved shall be carried out in accordance with the details contained within the Flood Risk Assessment.

Reason: To safeguard the safety of future occupants of the development.

15) Before the dwelling on plot 2 hereby permitted is occupied, the side facing dormer window shall be obscure glazed and remain as such in perpetuity.

<u>Reason</u>: To protect the privacy of neighbouring occupiers.

16) Before the dwelling on plot 2 hereby permitted is occupied, the three side facing rooflights shall be obscure glazed, incapable of being opened and shall be maintained as such unless the cill height is at least 1.7m above inside floor level.

Reason: To protect the privacy of neighbouring occupiers.

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located approximately 3km north of The Swale Special Protection Area (SPA) and Ramsar site and 4.2km east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in

so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.
- Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that

complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

The Council's approach to this application:

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

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

In this instance:

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

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

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

2.6 REFERENCE NO - 15/502191/FULL

APPLICATION PROPOSAL

Removal of condition 7 of planning permission SW/11/1430 to allow permanent use of land as a residential caravan site for one gypsy family

ADDRESS The Hawthorns Greyhound Road Minster-on-sea Kent ME12 3SD

RECOMMENDATION Grant further temporary permission for an additional year to enable the applicant to find alternative accommodation.

SUMMARY OF REASONS FOR RECOMMENDATION

The site is not suitable for permanent residential use, but the Council is not yet able to direct the applicant to available alternative sites.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Ms Liza Smith AGENT Mr Philip Brown
DECISION DUE DATE 07/05/15	PUBLICITY EXPIRY DATE 07/05/15	OFFICER SITE VISIT DATE

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/11/1430	Temporary planning permission for use as a residential caravan site.	Approved	June 2012

Temporary permission was granted in recognition of the fact that the Council could not demonstrate a five-year supply of sites, or direct the applicant to any available alternative sites that would be granted permission in preference to the application site.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The Hawthorns is an existing gypsy / traveller site situated on Greyhound Road, Minster. It sits on the eastern side of the road approximately halfway down and comprises an area of hard standing, a mobile home, and a utility building.
- 1.02 The site comprises one of a number of gypsy / traveller sites on Greyhound Road, the majority of which benefit from temporary planning permission.

2.0 PROPOSAL

2.01 The application seeks permission for removal of condition (7) of SW/11/1430 – which granted temporary consent for a period of 4 years – to allow permanent residential use of the site by gypsies or travellers.

3.0 SUMMARY INFORMATION

	Existing	
Site Area	0.1ha (0.2 acres)	
No. of pitches	1	
No. of caravans	2 (1 static + 1 tourer)	

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

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

- 5.01 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.
- 5.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, 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."

- 5.03 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."
- 5.04 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)

5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, 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)

- 5.06 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
 - 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 planmaking 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)
- 5.07 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)
- 5.08 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)

5.09 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) hat 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). (This mini paragraph 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). (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 5year 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). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

5.10 Finally, the definition of gypsies and travellers has been amended in the reissued 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."

Saved Policies of Swale Borough Local Plan 2008

- 5.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.12 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.13 Within the countryside, and outside of designated landscape areas such as AONBs, policy E9 (Protecting the Quality and Character of the Borough's Landscape) expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.
- 5.14 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 5.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly

demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.

- 1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection:
 - h) there is no conflict with pedestrian or highway safety;
 - screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - I) the land will not be in a designated flood risk area.
- 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."
- 5.16 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 which itself has since been superseded by PPTS and its emphasis of a five year supply of sites and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

5.17 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is currently being examined.

5.18 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

- 5.19 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that its publication post-dates the previous grant of temporary permission on this site I have considered it in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 5.20 The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. The Hawthorns (and, indeed, many of the other sites along Greyhound Road) scores red in a number of categories, including domination of nearest settled community; site access; and access to facilities. It is therefore not considered suitable as a permanent site this has been the Council's stance in regards to all gypsy and traveller applications along Greyhound Road for a number of years.

Five year supply position

- 5.21 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 5.22 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has

already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

The latest position of site provision

- 5.23 Evidence to the current Local Plan examination is that the Council has reinterrogated the GTAA to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals 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
- 5.24 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031. Of these 51 have already been granted permanent planning permission meaning that the outstanding need is just 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.
- 5.25 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of 0.7 pitches and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. The Local Plan Inspector endorsed this approach at the Inquiry sitting in November this year. Full, formal, acceptance of this stance relies upon a further round of public consultation, but based on the representations received up to this point it is not envisaged that there will be a significant deviation.

- 5.26 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 5.27 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. In this case the site owners/applicant are not gypsies so this consideration does not need to be undertaken.
- 5.28 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the current Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to consider or decide which option is appropriate and in the mean time it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.

6.0 LOCAL REPRESENTATIONS

6.01 Minster Parish Council has objected to the application, commenting:

"Although the appeal was allowed and the enforcement notice quashed the Inspector made some very clear deliberations which looked at:

- i. whether or not the development of the site is sustainable, having regard to accessibility to local services.
- ii. the effect of the development on the character and appearance of the surrounding area.
- iii. whether or not the development of the site is sustainable and encourages social inclusion
- iv. the need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites
- v. the appellant's need for a settled site and personal circumstances."
- 6.02 They continue on to state that (in summary) the site is in an unsustainable location; the development is harmful to the character and amenity of the countryside; the development does not encourage social inclusion and dominates the local settled community; that the Brotherhood Wood site could

- accommodate additional pitches to satisfy local need; and that the remote location does not contribute positively to the applicant's healthcare requirements.
- 6.03 The Brambledown Resident's Association objects, commenting that only temporary permission was granted originally due to the unsuitable nature of the site and the remote location, and noting that local residents are concerned at the number of new pitches that have been created on the road in recent years.
- 6.04 One letter of objection has been submitted by a local resident, commenting that the application site (and other pitches on Greyhound Road) have not retained woodland as shown on their application drawings, and only small areas of planting have been kept.
- 6.05 The Swale Footpaths Group has no objection.

7.0 CONSULTATIONS

- 7.01 Southern Water has no objections.
- 7.02 The Lower Medway Internal Drainage Board has no objections.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The accompanying Planning Statement notes:
 - that the June 2013 GTAA shows a need to provide 35 residential pitches in Swale, and the demand is largely for small rural sites;
 - Part 2 of the emerging Local Plan has not progressed beyond the issues and options stage and is unlikely to bring forward any alternative sites until after the current temporary permission expires;
 - It is unlikely that many new sites will be allocated on the Island; and
 - The applicant has established social relationships on the Island and depends on local health care facilities.
- 8.02 The statement continues to suggest that the development is in accordance with current and emerging Local Plan policies.
- 8.03 Of particular relevance is the appeal for Woodlands Lodge, another gypsy / traveller site also on Greyhound Road, under ENF/13/0036 and APP/V2255/C/13/2208507.
- 8.04 An enforcement notice was served on 14 October 2013 in respect of the applicant having moved on to the site unlawfully. The breach alleged within the notice was "without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/ mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing" at land now known as Woodland Lodge, Brambledown, Greyhound Road, Minster.

8.05 The appeal was allowed – largely on the personal circumstances of the applicant, but also as the Council could not identify other sites to which the applicant could relocate – and with the Inspector commenting (at paras. 41 and 43 of the decision):

"In terms of the site's location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.

On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time."

9.0 APPRAISAL

- 9.01 The PPTS suggests that local planning authorities should have due regard to the protection of local amenity and local environment and ensure that traveller sites are sustainable economically, socially and environmentally. The PPTS makes it clear 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." PPTS goes on to say that "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." It is worth noting that the word "very" was added to this paragraph in the 2015 re-issue of PPTS which implies to me that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this one can do to the character of open countryside.
- 9.02 The proliferation of sites on Greyhound Road has caused some harm to the character and appearance of the street scene and the wider countryside. An area of woodland has been removed to make room for the various plots and, as a result, a number of the sites including The Hawthorns due to its location on the western side of Greyhound Road are prominent in views from the Lower Road and give rise to a harsh urbanised appearance that is contrary to the rural character of the area. I am not convinced that landscaping entirely mitigates this harm.
- 9.03 The number of sites on Greyhound Road has also reached a point at which they dominate the local settled community at Brambledown and the small unmade local roads nearby.

- 9.04 The unsuitability of the location along with the harm caused, as set out above, is a clear indication that permanent planning permission should not be granted. The Inspector's decision on the Woodlands Lodge appeal (as above) supports this assertion, and provides a clear steer for the Council.
- 9.05 However I consider that there has been a significant change in relevant considerations since the original grant of temporary permission for this site in 2011, with a very strong growth in the number of permanent permitted pitches within the Borough, and the evolution of the Council's policy approach to gypsy and traveller sites.
- 9.06 I understand that at the end of the 2014/2015 annual monitoring year 47 permanent gypsy and traveller sites had been permitted. According to the strictest supply calculation, that represents a more than five year supply of sites in just two years, with approval of more windfall sites likely. As such, I see no overriding need for sites that suggests that a site with such clear environmental and sustainability objections should be approved on a permanent basis. Any re-calculation of need following the re-issue of PPTS can only reduce the need figure, but that is an argument that I do not feel needs to be given weight here.
- 9.07 This situation may improve still further with new sites coming forward on new major development sites or through windfall applications. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to, and it is unlikely that there will be in the immediate future. This suggests that more time than initially thought is required to see the future of the applicant resolved and further clarification on gypsy and traveller policy would be established through National Planning Policy Guidance and the adoption of the Local Plan.
- 9.08 This suggests that there is a need to grant further temporary permissions for the existing sites along Greyhound Road, including the current application site, to enable the applicants to find alternative accommodation.
- 9.09 I therefore recommend that condition 7 be varied to grant the applicants temporary permission for a further year, which will give time for them to investigate alternative accommodation and for the Council to continue to review its position in regards to the supply of sites.
- 9.10 I note local objections in regards to the continued use of the site but consider that the Council's position is not strong enough in terms of being able to direct the applicant to alternative sites to justify an outright refusal of permission at an appeal. In this regard I would revisit the previous Inspector's decision, as above, in which the Inspector comments "I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited."

10.0 CONCLUSION

- 10.01 The application seeks to remove condition (7) of planning permission SW/11/1430 to allow permanent residential use of the site by two gypsy families. The Council has long held the view, which has been supported at appeal, that the site is not suitable for permanent accommodation, and the Council has now effectively met its 5-year supply target, but at this stage we are unable to direct the applicant to available alternative pitches.
- 10.02 Taking the above into account I recommend that a further temporary permission be granted for a period of 1 year to allow time for the applicant to find suitable alternative site.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

<u>Reasons</u>: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

(2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.

<u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(3) No more than one touring caravan shall be stationed on the site at any one time.

<u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(4) 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.

<u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of preventing light pollution.

(6) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

(7) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

<u>Reasons</u>: To ensure the use does not give rise to concerns over localised flooding.

(8) The area shown on the layout submitted (as part of application SW/11/1430) as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

<u>Reasons</u>: To ensure the use does not prejudice conditions of highway safety and in accordance with Policy T3 of the Swale Borough Local Plan 2008.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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

APPENDIX TO BE ADDED -

Paring Committee

The Hauthorni, Greyhand Id.

29.09.15 Less

Gypsy and Traveller Site Allocations Assessment Methodology

Stage 1 - Is the site available?

Site Assessment Table: Stage 1 - Site availability				
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Availability		Owner confirmed site not available, nor is	Site availability uncertain	Willing landowner
Is the site available and deliverable?		likely to become available over plan period	unknown.	

IF RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 2.

Stage 2 - Suitability/ Constraints

Site Assessment Table: Stage 2 - Suitability				
Criteria and Issues	Assessment references in addition to National Planning Policy Framework (NPPF), National Planning Guidance (NPG)	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Flood Zone Flooding and risk to residents	Swale Strategic Flood Risk Assessment (SFRA) and Environment Agency guidance	Flood zone 3/ cannot be mitigated	Flood zone 2 or 3 but with acceptable mitigation to the satisfaction of the Council and Environment Agency	Flood zone 1
Landscape Impact on designations or on landscape character/quality	Kent Downs AONB Management Plan 2009. Landscape Character and Biodiversity Appraisal SPD. Advice from Natural England and other environmental bodies	1. a landscape designation, or 2. will affect the setting of a designation; or 3. is within an Area of High Landscape Value with unacceptable detrimental impact or where landscape impact cannot be mitigated including cumulative impacts	Within close proximity of a designated area but, and where landscape impact may be mitigated	Outside designated area and not affecting the setting of a designation/ No impact
Biodiversity Impact on biodiversity of known protected species	Advice from KCC Archaeology Officers, UK/ Kent/ Swale BAP, advice from Natural England and environmental bodies	Site is within or affecting international, national or locally designated sites with unacceptable detrimental impact or where impact cannot be mitigated including cumulative impacts	Site is within, close proximity to or affecting international, national or locally designated sites where impact could be mitigated	Outside of any designation and not affecting the setting of a designation/No impact
Scale of site or multiple sites Scale dominating nearest settled community	Officer assessment - considering quantity of existing sites against scale and form of existing settlement/settled community and advice from service providers	Has significant dominating effect	Scale has some impact	Scale has little or no impact
Archaeology and	Heritage asset list and advice from heritage	Unacceptable detrimental impact on scheduled	Possible impact /minor impact on scheduled	Not in close proximity to Scheduled Ancient

Conservation Impact on Scheduled Ancient Monument or other heritage asset/non designated heritage asset	advisors	ancient monument/other heritage asset/non designated heritage assets	ancient monument/other heritage asset/non designated heritage assets	Monument/other heritage assets
Contamination Unacceptable living conditions	Consult Land Contamination Planning guidance Document 2013 and Contaminated Land Strategy 2010	Site is contaminated and cannot be mitigated	Site is or is potentially contaminated - potential impact likely to be mitigated	No known contamination issues
Noise and disturbance issues Unacceptable living conditions	Consult Noise and Vibration: Planning Guidance Document 2013	Site located adjacent to noisy land use – cannot be mitigated	Site located adjacent to noisy land use - potential impact likely to be mitigated or low level	No noisy adjacent land uses
Site access and safety Access/Proximity to major roads and pedestrian routes	Any transport information submitted and Kent Highways Services assessment/advice	Remote location accessed by unmade roads/ poor roads or unresolvable highway safety issue	Some access to road network and site – potentially requiring mitigation or highway safety issue and possibly capable of mitigation	Good site and road access and no significant highway safety concerns
Accessibility to facilities GP surgery, Primary School, Shops, Public Transport	Desk top review	None or few within reasonable distance	Reasonable distance to most services	All within reasonable travelling distance

IF ANY SCORE RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 3.

Stage 3 - More detailed site suitability

	Site Assessment Table: Stage 3 - Detailed suitability			
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green- Fully meets criteria
Topography Uneven or unsafe ground levels and structures	Site survey by Officers and landscape evidence submitted	Steep slope which makes site unsuitable	Sloping land which may require works to make site suitable for use	Level or gently sloping site
Residential Amenity Impact on amenity of proposed and existing residents	Officers' assessment - same as housing, overlooking, disturbance from vehicle movements, loss of light, overcrowding etc	Close proximity to existing adjacent uses especially residential properties where any potential impact (light, visual, other disturbance). Has unacceptable impact which cannot be mitigated	Some impact on residential amenity — likely to be mitigated or low level	No impact on residential amenity
Utilities Electricity, Gas, Water, Drainage/ Sewers (mains or cesspit)	Site visit and utility providers advice	Not applicable as a reason for discounting a site	Yes – most (3 or 4)	Yes – all
Site capable of live/ work mix Priority for sustainable	Site visit/ submitted details	Not applicable as a reason for discounting a site	No or maybe	Yes

locations				
Parking Sufficient parking	Site visit and Kent Highways Services advice	No parking/ turning and no potential to provide parking and turning space	Inadequate parking/ turning or limited potential to	Sufficient parking and turning space
and turning space			provide parking and turning space	A MALESTA
Landscaping	Site visit and Swale Landscape Character and	Not applicable as a reason for discounting a site	No soft landscaping/	Site has existing soft landscaping/ option to
Sufficient landscaping for amenity/impact on landscape character	Biodiversity Assessment 2010, Planting on New Developments: A Guide for Developers		landscaping could impact on landscape character area	provide soft landscaping



2.7 REFERENCE NO - 15/502237/FULL

APPLICATION PROPOSAL

Removal of condition 7 of planning permission SW/11/1414 (Change of use of land to use as residential caravan site for one gypsy family with two caravans, including no more than one static mobile home, erection of utility room and laying of hardstanding).

ADDRESS The Peartree Greyhound Road Minster-on-sea Kent ME12 3SP

RECOMMENDATION Grant further temporary permission for an additional year to enable the applicant to find alternative accommodation.

SUMMARY OF REASONS FOR RECOMMENDATION

The site is not suitable for permanent residential use, but the Council is not yet able to direct the applicant to available alternative sites.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Sheppey Central	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Kerbey AGENT Mr Phi	Mr lip Bro	David wn
DECISION DUE DATE	PUBLICITY EXPI	RY DATE	OFFICER SITE	VISIT	DATE
08/05/15	08/05/15				

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/11/1414	Temporary planning permission for use as	Approved	June 2012
	a residential caravan site.		

Temporary permission was granted in recognition of the fact that the Council could not demonstrate a five-year supply of sites, or direct the applicant to any available alternative sites that would be granted permission in preference to the application site.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The Peartree is an existing gypsy / traveller site situated on Greyhound Road, Minster. It sits on the western side towards the bottom end of the road and comprises an area of hard standing, two mobile homes, and a utility building.
- 1.02 The site comprises one of a number of gypsy / traveller sites on Greyhound Road, the majority of which benefit from temporary planning permission.

2.0 PROPOSAL

2.01 The application seeks permission for removal of condition (7) of SW/11/1414 – which granted temporary consent for a period of 4 years – to allow permanent residential use of the site by gypsies or travellers.

3.0 SUMMARY INFORMATION

	Existing	
Site Area	0.1ha (0.2 acres)	
No. of pitches	1	
No. of caravans	2 (1 static + 1 tourer)	

4.0 PLANNING CONSTRAINTS

4.01 Environment Agency Flood Zone 3.

5.0 POLICY AND OTHER CONSIDERATIONS

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

- 5.01 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.
- 5.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, 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."
- 5.03 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."
- 5.04 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)

5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, 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)

- 5.06 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
 - 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
 - to reduce tensions between settled and traveller communities in planmaking 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)
- 5.07 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)
- 5.08 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)

5.09 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) hat 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). (This mini paragraph 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). (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 5year 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). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

5.10 Finally, the definition of gypsies and travellers has been amended in the reissued 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."

Saved Policies of Swale Borough Local Plan 2008

- 5.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.12 This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.13 Within the countryside, and outside of designated landscape areas such as AONBs, policy E9 (Protecting the Quality and Character of the Borough's Landscape) expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.

- 5.14 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 5.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
 - 1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans:
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection:
 - h) there is no conflict with pedestrian or highway safety;
 - screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - I) the land will not be in a designated flood risk area.
 - 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."
- 5.16 This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 which itself has since been superseded by PPTS and its emphasis of a five year supply of sites and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 5.17 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits 2031*, was published in December 2014 and is currently being examined.
- 5.18 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications

Site Assessment

- 5.19 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that its publication post-dates the previous grant of temporary permission on this site I have considered it in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 5.20 The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. The Peartree (and, indeed, many of the other sites along Greyhound Road) scores red in a number of categories, including domination of nearest settled community; site access; and access to facilities. It is therefore not considered suitable as a permanent site this has been the Council's stance in regards to all gypsy and traveller applications along Greyhound Road for a number of years.

Five year supply position

- 5.21 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 5.22 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified

from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

The latest position of site provision

- 5.23 Evidence to the current Local Plan examination is that the Council has reinterrogated the GTAA to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals 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
- 5.24 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031. Of these 51 have already been granted permanent planning permission meaning that the outstanding need is just 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.
- 5.25 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of 0.7 pitches and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. The Local Plan Inspector endorsed this approach at the Inquiry sitting in November this year. Full, formal, acceptance of this stance relies upon a further round of public

- consultation, but based on the representations received up to this point it is not envisaged that there will be a significant deviation.
- 5.26 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 5.27 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. In this case the site owners/applicant are not gypsies so this consideration does not need to be undertaken.
- 5.28 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the current Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to consider or decide which option is appropriate and in the mean time it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.

6.0 LOCAL REPRESENTATIONS

6.01 Minster Parish Council has submitted a lengthy objection to the proposal, referring to the previous Inspector's decision (discussed below) and commenting:

"Although the appeal was allowed and the enforcement notice quashed the Inspector made some very clear deliberations which looked at:

- i. whether or not the development of the site is sustainable, having regard to accessibility to local services.
- ii. the effect of the development on the character and appearance of the surrounding area.
- iii. whether or not the development of the site is sustainable and encourages social inclusion
- iv. the need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites
- v. the appellant's need for a settled site and personal circumstances."

- 6.02 They continue on to state that (in summary) the site is in an unsustainable location; the development is harmful to the character and amenity of the countryside; the development does not encourage social inclusion and dominates the local settled community; that the Brotherhood Wood site could accommodate additional pitches to satisfy local need; and that the remote location does not contribute positively to the applicant's healthcare requirements.
- 6.03 1 letter of general comments received, noting that the woodland previously covering the site has been cleared and not replaced with new planting.
- 6.04 1 letter of objection has been received, raising the following summarised concerns:
 - Impact on character and appearance of the countryside;
 - More people are living, and more caravans have been stationed, on the site than was previously approved;
 - Loss of the previous woodland;
 - Noise and disturbance; and
 - Police are often called to the road.
- 6.05 The Brambledown Residents Association objects to the application, commenting that (in summary):
 - The scale of sites on Greyhound Road is now such that it appears as a single large site;
 - The scale and manner of development is harmful to the character and amenity of the countryside; and
 - Greyhound Road has been deemed unsuitable for permanent permissions by both the Council and the previous appeal Inspector.

7.0 CONSULTATIONS

7.01 Natural England has no comments.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Of particular relevance is the appeal for Woodlands Lodge, another gypsy / traveller site also on Greyhound Road, under ENF/13/0036 and APP/V2255/C/13/2208507. (Decision attached as appendix.)
- 8.02 An enforcement notice was served on 14 October 2013 in respect of the applicant having moved on to the site unlawfully. The breach alleged within the notice was "without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/ mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing" at land now known as Woodland Lodge, Brambledown, Greyhound Road, Minster.

8.03 The appeal was allowed – largely on the personal circumstances of the applicant, but also as the Council could not identify other sites to which the applicant could relocate – and with the Inspector commenting (at paras. 41 and 43 of the decision):

"In terms of the site's location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.

On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time."

9.0 APPRAISAL

- 9.01 There have been a number of applications for gypsy / traveller plots at Greyhound Road dating back to around 2008. When considering each of these the Council has consistently maintained the position that the location is unsuitable for permanent gypsy / traveller accommodation.
- 9.02 Greyhound Road is somewhat remote from shops and services. Pedestrian access is via Lower Road, which is a main Road with a 60mph limit, and has no street lighting and no footway. Although there are more remote sites within the Borough this location is far from ideal and does not, in my view, represent a sustainable or sensible location. Furthermore when one considers the proliferation of gypsy / traveller sites on Greyhound Road and their distance from the settled community it seems to me that this site would not achieve the aims of the PPTS in terms of promoting integrated coexistence between the site and the local community.
- 9.03 The PPTS suggests that local planning authorities should have due regard to the protection of local amenity and local environment and ensure that traveller sites are sustainable economically, socially and environmentally. The PPTS makes it clear 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." PPTS goes on to say that "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." It is worth noting that the word "very" was added to this paragraph in the 2015 re-issue of PPTS which implies to me that whilst there is still no outright ban on approving sites in open countryside, there is a need

- to give greater weight to the harm that sites such as this one can do to the character of open countryside.
- 9.04 The proliferation of sites on Greyhound Road has caused some harm to the character and appearance of the street scene and the wider countryside. An area of woodland has been removed to make room for the various plots and, as a result, a number of the sites including The Peartree due to its position on the western side of the road are prominent in views from the Lower Road and give rise to a harsh urbanised appearance that is contrary to the rural character of the area. I am not convinced that landscaping entirely mitigates this harm.
- 9.05 The number of sites on Greyhound Road has also reached a point at which they dominate the local settled community at Brambledown and the small unmade local roads nearby.
- 9.06 The unsuitability of the location along with the harm caused, as set out above, is a clear indication that permanent planning permission should not be granted. The Inspector's decision on the Woodlands Lodge appeal (as above) supports this assertion, and provides a clear steer for the Council.
- 9.07 However I consider that there has been a significant change in relevant considerations since the original grant of temporary permission for this site in 2011, with a very strong growth in the number of permanent permitted pitches within the Borough, and the evolution of the Council's policy approach to gypsy and traveller sites.
- 9.08 I understand that at the end of the 2014/2015 annual monitoring year 47 permanent gypsy and traveller sites had been permitted. According to the strictest supply calculation, that represents a more than five year supply of sites in just two years, with approval of more windfall sites likely. As such, I see no overriding need for sites that suggests that a site with such clear environmental and sustainability objections should be approved on a permanent basis. Any re-calculation of need following the re-issue of PPTS can only reduce the need figure, but that is an argument that I do not feel needs to be given weight here.
- 9.09 This situation may improve still further with new sites coming forward on new major development sites or through windfall applications. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to, and it is unlikely that there will be in the immediate future. This suggests that more time than initially thought is required to see the future of the applicant resolved and further clarification on gypsy and traveller policy would be established through further National Planning Policy Guidance and the adoption of the Local Plan.
- 9.10 This suggests that there is a need to grant further temporary permissions for the existing sites along Greyhound Road, including the current application site, to enable the applicants to find alternative accommodation.

- 9.11 I therefore recommend that condition 7 be varied to grant the applicants temporary permission for a further year, which will give time for them to investigate alternative accommodation and for the Council to continue to review its position in regards to the supply of sites.
- 9.12 I note local objections in regards to the continued use of the site but consider that the Council's position is not strong enough in terms of being able to direct the applicant to alternative sites to justify an outright refusal of permission at an appeal. In this regard I would revisit the previous Inspector's decision, as above, in which the Inspector comments "I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited."

10.0 CONCLUSION

- 10.01 The application seeks to remove condition (7) of planning permission SW/11/1414 to allow permanent residential use of the site by a gypsy family. The Council has long held the view, which has been supported at appeal that the site is not suitable for permanent accommodation, but at this stage we are unable to direct the applicant to available alternative pitches.
- 10.02 Taking the above into account I recommend that a further temporary permission be granted for a period of 1 year to allow time for the applicant to find suitable alternative site and for the Council to review its position in regards to pitch provision.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
 - <u>Reasons:</u> As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.
- (2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.
 - <u>Reasons:</u> In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.
- (3) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

<u>Reasons:</u> In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(4) 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, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

<u>Reasons:</u> In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of preventing light pollution.

(6) The access details shown on the approved plans shall be maintained in accordance with these details.

Reasons: In the interests of highway safety and convenience.

(7) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

<u>Reasons:</u> To ensure the use does not give rise to concerns over localised flooding.

(8) The area shown on the submitted layout as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

<u>Reasons:</u> To ensure the use does not prejudice conditions of highway safety.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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



Appeal Decision

Hearing and site visit held on 24 June 2014

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 October 2014

Appeal Ref: APP/V2255/C/13/2208507

Land at Woodlands Lodge, Greyhound Road, Brambledown, Kent ME12 3SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Thomas Price against an enforcement notice issued by Swale Borough Council.
- The Council's reference is ENF/GEN.
- The notice was issued on 14 October 2013.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing.
- The requirements of the notice are to: (i) Cease the use of any part of the land as a
 caravan site for the stationing of any mobile homes or caravans (ii) Remove any
 caravans/mobile homes from the land, including any works undertaken in connection
 with the use of the site for the stationing of mobile homes or caravans (iii) Remove any
 other buildings or structures from the land (iv) Remove the hard-surfacing from the
 land and restore the land to its previous condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) and the deemed planning application

- The appellant's case is put forward on the basis that he and his family are Romany Gypsies and that the site is suitable for a gypsy and traveller caravan site. There is agreement between the appeal parties that the appellant, and his family, meet the gypsy and traveller definition set out in Annex 1 of the Planning Policy for Traveller Sites ('the PPTS'). Given the evidence about his travels in connection with landscaping and building maintenance work, I have no reason to reach a different conclusion.
- The main issues are the following:
 - (i) Whether or not the development of this site is sustainable, having particular regard to accessibility to local services,
 - (ii) The effect of the development upon the character and appearance of the surrounding area,

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Appeal Decision APP/V2255/C/13/2208507

- (iii) Whether or not the development of this site is sustainable and encourages social inclusion,
- (iv) The need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites and,
- (v) The appellant's need for a settled site and personal circumstances.
- For background information, the appellant commenced using the site as a caravan site in early 2013. At the time, retrospective planning applications were submitted and these were refused by the Council. The appellant lives on the site with his wife and children.
- 4. Saved Policy E1 of the Swale Borough Local Plan 2008 (LP) relates to all development proposals. Among other matters, it requires developments to respond positively by reflecting the positive characteristics and features of the site and locality, protect and enhance the natural environment, and meet the highest standards of accessibility and inclusion so that all potential users can use them safely and easily. Policy E6 is a general countryside protection Policy. Broadly speaking, the aims and objectives of these LP Policies are consistent with advice found in paragraphs 7, 9, 14, 17, 55 and 56 of the National Planning Policy Framework.
- 5. LP Policy H4 states that the Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies and travelling show persons with a genuine connection with the locality of the proposed site. It then sets out general criteria for such proposals to comply with. I find this specific Policy to conflict with advice contained in paragraph 22 (e) of the PPTS, which states that Councils should determine applications for sites from any travellers and not just those with local connections. Given the significant degree of conflict with the PPTS, the Council acknowledged that limited weight can be given to this particular LP Policy.
- 6. The draft Swale Borough Local Plan, Bearing Fruits 2031, was published for public consultation in August 2013 and comprises two parts. Part 1 has been subject to public consultation. Part 2 is likely to allocate sites for gypsy and travellers. The gypsy and traveller site allocations have been the subject of public consultation and the feedback has been considered by the Council. Over the summer, the Council is likely to review the sites submitted and identify additional sites.
- Policy DM9 of Part 1 relates to gypsy and traveller sites in rural areas and Policy ST3 sets out the settlement hierarchy. Policy DM10 of Part 2 aims to provide pitches for travellers as part of new residential developments. For example, for housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsy and travellers.
- The anticipation is that Part 1 would be submitted to the Secretary of State for examination in late autumn/winter 2014. However, I attach limited weight to this draft Local Plan. This is because it is yet to be scrutinised by independent examination and found 'sound'. It may change in the future.
- In July 2009, a document titled: 'Gypsy and Traveller Corporate Policy' was published by the Council as an interim policy. The policy involves a criteria-

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based scoring system for sites. However, given its non-statutory status, it carries little weight in the context of this appeal.

Accessibility to local services

- 10. The PPTS advises, in paragraph 23, that local planning authorities should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Paragraph 11, Policy B, gives guidance on the allocation of sites for travellers. It requires traveller sites to be sustainable economically, socially and environmentally, and sets out a number of requirements that local planning policy should meet. Although this Policy strictly applies to the allocation of traveller sites in local plans, the tests set out in paragraph 11 are equally relevant in assessing whether proposed sites satisfy the requirement that they should be sustainable.
- Policy C of the PPTS requires local planning authorities, when assessing the suitability of sites in rural or semi-rural settings, to ensure that the scale of such sites does not dominate the nearest settled community.
- 12. The site is situated within a predominantly rural area. It lies within the hamlet of Brambledown which is sparsely populated. The immediate locality is characterised by a scattering of dwellings mainly fronting the main route through the area and Elmley Road. The site is accessed via Greyhound Road, which is a narrow track and roughly terminates at right angles to the site. There is one residential property and there are six other gypsy and traveller sites along Greyhound Road.
- 13. The site is located some distance from the nearest towns of Minister on Sea (about 2.6 km) and Eastchurch (4 km). These contain facilities such as schools, shops and health centres. To access these amenities on foot, the route is via a mainly rural unlit footpath, which is incomplete in places and is located along the busy A2500 Lower Road; making it unattractive to walk from the site to access amenities in Minister or Eastchurch. There is a farm shop on the Lower Road which is within walking distance of the site, but the appellant confirmed that a weekly shop involves a drive to the larger towns.
- 14. A settled base gives the appellant and his family an opportunity to access health and education facilities and avoids unauthorised roadside encampments. The appellant acknowledges that he meets his day-to-day needs and travels to work by means of his own motor car. He considers that is not unusual in this type of rural area. However, the site is located some distance from amenities and that is why the appellant is so heavily reliant upon the private motor car. In this location, there is a lack of public transport given the remoteness of this part of Brambledown.
- 15. Turning to the location of the existing gypsy and traveller sites in Brambledown, there is one permanent site known as The Farmyard on Elmley Road; it is in proximity of existing dwellings and is not as isolated as the appeal site. The six other sites along Greyhound Road are tolerated on the basis that there is a need for traveller sites, and that the Council could not find alternative provision. Five have temporary planning permission until June 2016, but the one at Rambling Rose expired in April 2011. The grant of temporary planning permission is in recognition of the isolated location of these other sites given their distance from local amenities.

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16. For all of the above reasons, I find that the site is unsuitable and unsustainable for a residential use. This is because it is remote and located away from a settlement with adequate and sufficient amenities.

Character and appearance

- 17. The site is occupied by a static mobile home and a timber utility building. The site was characterised as woodland in a mainly rural area. The surrounding area is rural in character. In this particular location, the presence of a static caravan on the site, detached utility building and the appellant's commercial truck are seen as incongruous and out of place features in the landscape.
- 18. Although views are limited in extent to the immediate locality given the presence of trees around the edge of the site, the mobile home is positioned towards the north of the site and it is visible from Greyhound Road given the wide access. The utility building is a large timber structure, and it is set away from the mobile home. The utility building's bulk and mass has a detrimental impact upon the visual appearance of the site. In addition to that, the hardstandings occupy an extensive area. I consider that the positioning and location of the mobile home combined with the scale of the utility building and the extent of the hard-surfacing have a considerable urbanising effect upon the countryside. The use of landscaping could soften the appearance of the site and over time mitigate, to an extent, the visual harm, but it would not remove it entirely.
- 19. The aerial imagery of the area shows a gradual change over time in the appearance of the site. The unchallenged information shows the complete removal of trees and vegetation especially around the centre and entrance of the site. The trees have been replaced by a vast amount of hard-surfacing. The appellant submits that the trees were affected by an outbreak of the Dutch elm disease. But it is unclear as to whether or not the vast majority of the trees required felling, because no expert evidence has been submitted to show the nature or scale of the problem.
- 20. As a result of the trees' removal, the area has been paved over thereby affecting the site's wooded qualities and its environs. The site now has a more built-up appearance.
- For all of the above reasons, I find that the development materially harms the wooded appearance of the site and thus results in environmental damage.

Social inclusion

- 22. The Framework encourages strong, vibrant and healthy communities and supports social wellbeing. Paragraph 69 states that the planning system can play an important role in facilitating social interaction and creating healthy and inclusive communities. The PPTS echoes that general guidance. It promotes peaceful and integrated co-existence between the traveller and settled communities. 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.
- 23. The Parish Council and Brambledown Residents' Association ('the BRA') are concerned about the isolated location of the site and consider that there is little opportunity for social interaction between the site's occupiers and local community. However, there is no evidence that there has not been peaceful

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coexistence between the site and the local community, and indeed the appellant has submitted evidence to indicate the contrary. Nonetheless, given the site's isolated and remote location, the presented evidence shows that contact with the settled community is likely to occur while accessing facilities in Minster or Eastchurch even if this is infrequent.

- 24. The PPTS suggests that local planning authorities should strictly limit traveller site development in the open countryside that is away from existing settlements. However, it does recognise that these sites could be allowed in rural or semi-rural locations that respect the scale of and do not dominate the nearest settled community. The development of this particular site is of a scale which results in the creation of one pitch and is unlikely to dominate the settled community in isolation. However, the Council, supported by the Parish Council and BRA, are concerned about the potential cumulative effect. The argument is that the development results in an imbalance and that a 'tipping-point' has been reached, because of the number of traveller sites along Greyhound Road.
- 25. There are 31 dwellings in Brambledown but there is only one conventional house on the eastern side of Greyhound Road. There is a family occupying a permanent pitch at The Farmyard, Elmley Road, but there are six temporary sites on Greyhound Road. These are identified as The Hawthorns, Ivy Gate, Three Palms, The Pear Tree and Blackthorn Lodge. All of these have one pitch. The site known as Rambling Rose has two mobile homes. Each of these sites includes a utility block and some have a touring caravan. Although there is a concentration of caravan sites along Greyhound Road, there are only eight gypsy and traveller sites in Brambledown.
- 26. Given the limited number of pitches and families, I find that the number and scale of gypsy and traveller sites do not dominate the sparsely populated settlement of Brambledown to such an unacceptable degree. Policy C of the PPTS is therefore satisfied.

The need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites

- 27. Paragraph 9 of the PPTS states that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. The footnote to sub-paragraph (a) defines the word 'deliverable'. To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that development will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.
- 28. Traditionally, the Borough has one of the largest gypsy and traveller populations within the County of Kent and the South East region. Public sites have high occupancy levels, low turnover and long waiting lists.
- 29. The most up-to-date assessment of need is the gypsy and traveller accommodation report ('the GTAA'), dated June 2013. This indicates that between 2013 and 2031 there is a need for 85 pitches of which 24 are required

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- during the five year period up to 2019. In February 2014, the GTAA figure reduced to 81 pitches as planning permission had been granted for four more pitches on various sites. By the time of the Hearing, planning permission had been granted for a total of 31 pitches.
- 30. Out of the 31 pitches recently granted planning permission, 19 are on a site known as Brotherhood Wood, Gate Hill, Dunkirk, Faversham (for consistency I will refer to it as 'the Dunkirk site'). The planning agent questioned whether or not this site should be included in the 5-year calculations on two principal grounds. First, the contention is that there are ethnic differences between Irish and English travellers who would feel unsafe on the Dunkirk site. However, the agent conceded that there is nothing in the LP, the PPTS or the Framework to support the exclusion of the Dunkirk site from the 5-year supply calculations on that basis alone.
- 31. Second, the Dunkirk site's remote location. However, planning permission for the 19 pitches can be considered deliverable until permission expires unless there is clear evidence that this scheme will not be implemented within five years. There is no clear evidence to suggest that the permission will not be implemented within the next five years because of viability¹. For these reasons, the Dunkirk site can be taken into account.
- 32. In the context of this particular appeal, I find that the Council can show that it has 6.5 years supply of gypsy and traveller sites thus meeting advice contained in paragraph 9 of the PPTS.

The appellant's need for a settled site and personal circumstances

- 33. The site is occupied by Mr and Mrs Price and their two children; Tommy Price (2) and Charlie-James (4). There is broad agreement that the family moved from a small site occupied by the appellant's father-in-law and his wife in Stockbury. This is because that site was too unsuitable for the whole family to co-exist; the appellant told me that he and his wife and children cannot return to Stockbury because of its inadequate size. The Council did not challenge these assertions.
- 34. The appeal site was chosen because it is close to other members of the appellant's extended family. There is some force behind the assertion that the appellant needs to live close to his extended family so that they can function as a group and care for each other.
- 35. The appellant did not approach the Council for an alternative site, but there is no available space on any public sites to which the family can be relocated. The Council consider that the Dunkirk site is a reasonable alternative but even they accepted that it is not available right now because it is not yet developed. The appellant told me that, even if there are vacancies at the Dunkirk site, it is not in practice suitable because of ethnic differences. There is a genuine fear of violence or intimidation or a falling out with the operators, but other legislative provisions are designed to control violence and anti-social behaviour.
- 36. Additionally, the appellant told me that he has used up most of his financial resources in acquiring and developing the site. He cannot afford an alternative site.

¹ The planning permission ref: SW/13/0137, handed in at the Hearing, includes a condition limiting occupation of the site to gypsies and travellers only.

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- 37. Taking all of the above points together, I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited.
- 38. The PPTS acknowledges that settled accommodation can provide benefits in terms of access to health and education. In broad terms, access to continuous healthcare for the site occupants is a benefit and a settled base has given the family an opportunity to register with a medical practice in Minster.
- 39. A settled base has also given the appellant an opportunity to register his children at Eastchurch Church of England Primary School. Charlie-James has been regularly attending nursery since 10 January 2013. I heard first hand evidence from his mother about how well Charlie-James is performing and the excellent learning support available at the school for disadvantaged gypsy and traveller children. She found it very difficult to get a place at the school because it is oversubscribed. A letter from the school, dated 5 November 2013, confirms how well Charlie-James has settled down, integrated with other children from the settled community and benefits from educational and welfare support.
- 40. I recognise that it is not necessary for these particular needs to be met from this particular site and, given its isolated location, access to these facilities involves significant travel distances along a mainly rural road network. Nonetheless, there is no suggestion that there are alternative sites closer to Eastchurch School or other local centres to meet the educational needs of the children.

The overall balance and conclusion on ground (a)

- 41. In terms of the site's location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.
- 42. The appellant has purchased the site and uses it as a base to find work in the surrounding areas. The site can reasonably integrate with the settled community given the amount and number of gypsy and traveller sites in Brambledown. Also, the Council can show a 5 year supply of deliverable gypsy and traveller sites, but they accepted that, given the circumstances, an alternative site is not available at the present time. These considerations weigh in favour of granting permission, as do the personal circumstances of the appellant and his immediate family, and in particular the need for a settled base to allow Mr and Mrs Price's children to go to Eastchurch School.
- 43. On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time.
- 44. It is, however, also necessary to consider whether the grant of a temporary permission would be justified in this case.

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- 45. There is an identified 5-year supply of land for traveller sites in the area. The Council is taking a pro-active approach in addressing the need to provide sites for gypsies and travellers. That is why they have recently granted planning permission for permanent pitches on private sites, but to meet future needs for the traveller community, there is some work to do on allocating sites through the local planning process in a coordinated manner.
- 46. At the Hearing, the Council acknowledged that there are no available sites at the current time and the local plan process would take some time to allocate sites. They acknowledged time is needed for the local plan process to take its course and the adoption of Part 2 of the Local Plan would provide more certainty as to the availability of suitable and sustainable sites which might come forward and be realised. It is anticipated that Part 2 of the Local Plan would be adopted in early 2015. However, that seems a little bit optimistic because the Council needs to review the sites as a result of feedback from the public consultation exercise. I am told that additional sites would be explored and these would be assessed by using a new methodology for site selection.
- 47. Thus, there is a local planning vacuum as no mechanism is in place to meet the immediate needs of the appellant and his family through the planned provision of traveller sites. Moreover, once Part 2 of the Local Plan is adopted, the planning circumstances might change. Given these uncertainties, I consider that a grant of temporary planning permission is likely to assist the appellant in finding a suitable alternative site through the local planning process rather than on an ad hoc, unplanned and uncoordinated manner.
- 48. The Council recognised that there is no alternative site with the benefit of planning permission available now for the appellant and his family to go to. The appellant told me he has spent his financial resources in the purchase of this particular site and has no more means to acquire another site with the benefit of planning permission. Although it is possible for him to sell this site and raise some finance, that is also likely to take considerable length of time. A grant of temporary planning permission will give the appellant a settled base and an opportunity to investigate and consider options to build up his resources for an alternative site.
- 49. The Dunkirk site is not ready right now and so he can't go there. He cannot go back to his father-in-law's site as that is full and too small for all of the family. The other nearby sites occupied by other family members have the benefit of temporary planning permission and is mainly occupied by a single family. Moving onto these temporary sites is unlikely to be practical or feasible as they are not suitable in terms of their size. If temporary planning permission is not forthcoming, almost certainly, I was told, the appellant would have no choice except unauthorised or roadside encampments; in my view that is not in the best interests of the settled community nor the wider environment.
- 50. In addition to that, displacing the appellant right now without an available and suitable alternative site is likely to harm the best interests of Mr and Mrs Price's children. The Council consider that many children successfully move school when their parents relocate from one house to another and I acknowledge the children are young. However, Eastchurch School has expressed concern about the potential impact upon Charlie-James if he was moved out of the school at this time, because of the strong relationships which he has formed and the additional available support. The school is oversubscribed and so there is a

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real possibility that Charlie-James might lose his place. I consider that the disruption to the daily routine and education of Charlie-James should be minimised. Accessing education from no fixed abode, or from a series of temporary or unauthorised sites, can be problematic. It is in the interests of the children to remain on this particular site for a temporary period so that a suitable alternative can be identified.

- 51. If planning permission were to be refused, the outcome would be that the appellant and his family would lose their home. This would represent a serious interference with the family's right to respect for private and family life and the home (Article 8 of the Human Rights Act 1998). On the other hand, if a planning permission for a temporary period were to be granted it would avoid the appellant and his family becoming homeless and give them an opportunity to pursue a site through the local planning process. This would be a fair approach to the legitimate aim of protecting the environment, and granting a permission for a limited period would have no greater impact on the appellant and his family than would be necessary to address the wider public interest. I have had regard to the public sector equality duty, and a grant of temporary planning permission is, in my view, proportionate in this particular case.
- 52. To all of these findings I attach significant weight. For all of the above reasons, and having regard to all other matters, on balance, I conclude that the appeal should be allowed and planning permission should be granted for a temporary period subject to appropriate conditions, which I turn to next.

Conditions²

- 53. A condition limiting occupation to the appellant is necessary because it is his personal circumstances which have significantly weighed in favour of the grant of the temporary permission.
- 54. The Council suggested that a temporary planning permission should expire on 25 June 2016 because of the other impermanent sites on Greyhound Road which expire on this date. However, bearing in mind the need to allow sufficient time for the appellant to find an alternative site with planning permission, and the local planning process to take its course and the need to minimise disruption to the education of his children, I consider three years from the date of my decision is more justified and reasonable.
- 55. To limit the harm to the character and appearance of the countryside, a condition controlling the use of the pitch by one static and touring caravan is necessary. In addition, the appellant has one commercial truck for work purposes which is 10 tonne. A limitation restricting commercial use of the site is reasonable.
- 56. The development has already been carried out and a retrospective condition is required to ensure that a site layout plan is submitted to the Council for its approval within certain timescales. The details shall include: the siting of the caravans, the location of the hardstandings and utility building including its internal layout, any external lighting, and details of landscaping showing existing trees, shrubs and hedgerows to be retained. The stipulation shall include a requirement to submit a timetable for the implementation of the approved details and a mechanism for an appeal against non-determination.

² Circular 11/95 'The Use of Conditions in Planning Permissions' has been replaced by recent guidance found in the national Planning Practice Guidance apart from the model conditions.

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- 57. There is no evidence of flooding on this site and to require a surface water drainage strategy would be too onerous given the temporary nature of the development. The internal drainage board require a condition restricting a building or structure within 8m of an adopted ditch. There is no evidence of any adopted ditches on this particular site; such a condition is therefore superfluous.
- 58. The local highway authority does not object to the use of Greyhound Road to access the appeal site. I observed that the access is wide and there is enough turning space to permit vehicles to enter and exit the site in forward gear.

Conclusion

59. For all of the reasons given above and having considered all other matters, I conclude that the appeal should succeed on ground (a), the enforcement notice will be quashed and temporary planning permission granted for three years from the date of this decision.

Formal Decision

- 60. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use as a caravan site for the stationing of caravans/mobile homes used residentially including the erection of a utility building and the laying of hard-surfacing on land at Land at Woodlands Lodge, Greyhound Road, Brambledown, Kent, ME12 3SP referred to in the notice, subject to the following conditions:
 - The use hereby permitted shall be carried on only by Mr Thomas Price and his resident dependants, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter.
 - When the premises cease to be occupied by Mr Thomas Price and his resident dependents, or at the end of 3 years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
 - 3) There shall be no more than 1 pitch on the site and on the pitch hereby approved no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
 - No commercial activities shall take place on the land, including the storage of materials.
 - There shall only be one 10 tonne heavy goods vehicle stationed, parked or stored on the site at any time whatsoever.
 - 6) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

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- within 3 months of the date of this decision a scheme for the layout of the site including:
 - (a) the siting of the caravans
 - (b) the location of the hardstandings
 - (c) the utility building including its internal layout
 - (d) the location of any external lighting
 - (e) the details of landscaping showing existing trees, shrubs and hedgerows to be retained

shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- ii) within 11 months of the date of this decision, if the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- Subsequent to the implementation of the details required by condition 6, there shall be no change to those details.

A U Ghafoor

Inspector

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APPEARANCES

FOR THE APPELLANT:

Joe Jones Local gypsy and traveller representative

Mr and Mrs Price Appellant and his wife

Linda Baker

} on behalf of the appellant Sarah Monaghan

FOR SWALE BOROUGH COUNCIL:

Claire Dethier Planning Officer

Libby Mccutcheon Planning Lawyer

Andy Booth Local Councillor

INTERESTED PERSONS:

John Stanford Vice Chairperson, Minster on Sea Parish Council

Trish Codrington Minster on Sea Parish Council representative

Linda Lillo Chair, Brambledown Residents' Association

DOCUMENTS

- 1. Letters of support handed in by the appellant including letter from Eastchurch School
- 2. Extract copies of Swale Borough Council LP 2008
- 3. LP Policy update handed in by the Council
- 4. Gypsy and Traveller Site Allocations Assessment Methodology
- 5. Copy of planning permission ref: SW/13/0137
- Gypsy and Traveller Corporate Policy July 2009
- 7. Copies of The Planning Inspectorate's decisions references APP/V2255/C/11/2167577 and APP/V2255/A/12/2169572
- 8. List of suggested conditions.

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Planning Committee/he Pearfree, Greyheund Rd.

Gypsy and Traveller Site Allocations Assessment Methodology

Stage 1 - Is the site available?

Criteria and Issues	Assessment	Red - Does not meet	Amber – May be capable	Green -
ontona ana rosado	references	criteria	of meeting criteria	Fully meets criteria
Availability		Owner confirmed site not available, nor is	Site availability uncertain	Willing landowner
Is the site available and deliverable?		likely to become available over plan period	unknown.	

IF RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 2.

Stage 2 - Suitability/ Constraints

Criteria and Issues	Assessment references in	Red - Does not meet	Amber – May be	Green - Fully meets
Critata and Issaes	addition to National Planning Policy Framework (NPPF), National Planning Guidance (NPG)	criteria	capable of meeting criteria	criteria
Flood Zone Flooding and risk to residents	Swale Strategic Flood Risk Assessment (SFRA) and Environment Agency guidance	Flood zone 3/ cannot be mitigated	Flood zone 2 or 3 but with acceptable mitigation to the satisfaction of the Council and Environment Agency	Flood zone 1
Landscape Impact on designations or on landscape character/quality	Kent Downs AONB Management Plan 2009. Landscape Character and Biodiversity Appraisal SPD. Advice from Natural England and other environmental bodies	Site is within 1. a landscape designation, or 2. will affect the setting of a designation; or 3. is within an Area of High Landscape Value with unacceptable detrimental impact or where landscape impact cannot be mitigated including cumulative impacts	Within close proximity of a designated area but, and where landscape impact may be mitigated	Outside designated area and not affecting the setting of a designation/ No impact
Biodiversity Impact on biodiversity of known protected species	Advice from KCC Archaeology Officers, UK/ Kent/ Swale BAP, advice from Natural England and environmental bodies	Site is within or affecting international, national or locally designated sites with unacceptable detrimental impact or where impact cannot be mitigated including cumulative impacts	Site is within, close proximity to or affecting international, national or locally designated sites where impact could be mitigated	Outside of any designation and not affecting the setting of a designation/No impact
Scale of site or multiple sites Scale dominating nearest settled community	Officer assessment - considering quantity of existing sites against scale and form of existing settlement/settled community and advice from service providers	Has significant dominating effect	Scale has some impact	Scale has little or no impact
Archaeology and	Heritage asset list and advice from heritage	Unacceptable detrimental impact on scheduled	Possible impact /minor impact on scheduled	Not in close proximity to Scheduled Ancient

Conservation Impact on Scheduled Ancient Monument or other heritage asset/non designated heritage asset	advisors	ancient monument/other heritage asset/non designated heritage assets	ancient monument/other heritage asset/non designated heritage assets	Monument/other heritage asset/non designated heritage assets
Contamination Unacceptable living conditions	Consult Land Contamination Planning guidance Document 2013 and Contaminated Land Strategy 2010	Site is contaminated and cannot be mitigated	Site is or is potentially contaminated - potential impact likely to be mitigated	No known contamination issues
Noise and disturbance issues Unacceptable living conditions	Consult Noise and Vibration: Planning Guidance Document 2013	Site located adjacent to noisy land use – cannot be mitigated	Site located adjacent to noisy land use - potential impact likely to be mitigated or low level	No noisy adjacent land uses
Site access and safety Access/Proximity to major roads and pedestrian routes	Any transport information submitted and Kent Highways Services assessment/advice	Remote location accessed by unmade roads/ poor roads or unresolvable highway safety issue	Some access to road network and site — potentially requiring mitigation or highway safety issue and possibly capable of mitigation	Good site and road access and no significant highway safety concerns
Accessibility to facilities GP surgery, Primary School, Shops, Public Transport	Desk top review	None or few within reasonable distance	Reasonable distance to most services	All within reasonable travelling distance

IF ANY SCORE RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 3.

Stage 3 - More detailed site suitability

	Site Assess	sment Table: Stage 3 - Detailed	suitability	
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green- Fully meets criteria
Topography Uneven or unsafe ground levels and structures	Site survey by Officers and landscape evidence submitted	Steep slope which makes site unsuitable	Sloping land which may require works to make site suitable for use	Level or gently sloping site
Residential Amenity Impact on amenity of proposed and existing residents	Officers' assessment - same as housing, overlooking, disturbance from vehicle movements, loss of light, overcrowding etc	Close proximity to existing adjacent uses especially residential properties where any potential impact (light, visual, other disturbance). Has unacceptable impact which cannot be mitigated	Some impact on residential amenity – likely to be mitigated or low level	No impact on residential amenity
Utilities Electricity, Gas, Water, Drainage/ Sewers (mains or cesspit)	Site visit and utility providers advice	Not applicable as a reason for discounting a site	Yes – most (3 or 4)	Yes – all
Site capable of live/ work mix Priority for sustainable	Site visit/ submitted details	Not applicable as a reason for discounting a site	No or maybe	Yes

locations	Description of the second seco			
Parking	Site visit and Kent Highways Services advice	No parking/ turning and no potential to provide parking	Inadequate parking/ turning or	Sufficient parking and turning space
Sufficient parking and turning space		and turning space	limited potential to provide parking and turning space	
Landscaping Sufficient landscaping for amenity/impact on landscape character	Site visit and Swale Landscape Character and Biodiversity Assessment 2010, Planting on New Developments: A Guide for Developers	Not applicable as a reason for discounting a site	No soft landscaping/ landscaping could impact on landscape character area	Site has existing soft landscaping/ option to provide soft landscaping



2.8 REFERENCE NO - 15/503278/FULL

APPLICATION PROPOSAL

Variation or removal of condition 7 of SW/11/1415 (Change of use of land to use as residential caravan site for 2 gypsy families with a total of 4 caravans, including no more than 2 static mobile homes, erection of amenity building and laying of hardstanding) - for temporary permission of 4 years to be extended or removed.

ADDRESS Blackthorne Lodge Greyhound Road Minster-on-sea Kent ME12 3SP

RECOMMENDATION Grant further temporary permission for an additional year to enable the applicant to find alternative accommodation.

SUMMARY OF REASONS FOR RECOMMENDATION

The site is not suitable for permanent residential use, but the Council is not yet able to direct the applicant to available alternative sites.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Sheppey Central	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT Mr David Brazil AGENT Mr Philip Brown
DECISION DUE DATE	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE
10/06/15	10/06/15	

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/11/1415	Temporary planning permission for use as	Approved	2012
	a residential caravan site.		

Temporary permission was granted in recognition of the fact that the Council could not demonstrate a five-year supply of sites, or direct the applicant to any available alternative sites that would be granted permission in preference to the application site.

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 Blackthorne Lodge is an existing gypsy / traveller site on Greyhound Road, Minster. It sits on the southern end the road, backing on to open countryside, and comprises an area of hard standing, four caravans (two static and two tourers), and a utility building.
- 1.02 The site comprises one of a number of gypsy / traveller sites on Greyhound Road, the majority of which benefit from temporary planning permission. A number of applications for other sites on Greyhound Road are also presented on this agenda.

2.0 PROPOSAL

2.01 The application seeks permission for variation or removal of condition (7) of SW/11/1415 – which granted temporary consent for a period of 4 years – to allow permanent residential use of the site by gypsies or travellers.

3.0 SUMMARY INFORMATION

	Existing
Site Area	0.11ha (0.29 acres)
No. of pitches	2
No. of caravans	4 (2 static + 2
	tourer)

4.0 PLANNING CONSTRAINTS

4.01 None.

5.0 POLICY AND OTHER CONSIDERATIONS

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

- 5.01 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.
- 5.02 Whilst regard has been paid to all of the guidance as set out within the NPPF, 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."
- 5.03 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."
- 5.04 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)

5.05 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Whilst regard has been paid to all of the guidance as set out within the PPTS, 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)

- 5.06 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
 - 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
 - to reduce tensions between settled and traveller communities in planmaking 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)
- 5.07 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)
- 5.08 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)

5.09 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) hat 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). (This mini paragraph 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). (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 5year 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). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.

5.10 Finally, the definition of gypsies and travellers has been amended in the reissued 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."

Saved Policies of Swale Borough Local Plan 2008

- 5.11 Policy E1 (General Development Control Criteria) sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.12 Policy SH1 of the Local Plan sets out a settlement hierarchy where Brambledown is, by implication, even less significant than a minor settlement where only limited infill development will be permitted. This site lies in an isolated position within the countryside where policy E6 (The Countryside) seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.13 Within the countryside, and outside of designated landscape areas such as AONBs, policy E9 (Protecting the Quality and Character of the Borough's Landscape) expects development to be informed by local landscape character and quality, consider guidelines in the Council's landscape

character and assessment, safeguard distinctive landscape elements, remove detracting features and minimise adverse impacts on landscape character.

- 5.14 Policy E19 (Achieving High Quality Design and Distinctiveness) requires development proposals to be well designed.
- 5.15 Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
 - 1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans:
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - I) the land will not be in a designated flood risk area.
 - 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."

This policy was criticised by the Local Plan Inspector who saw it, as a criteria based rather than site allocations policy, as inconsistent with the then Circular 01/2006 - which itself has since been superseded by PPTS and its emphasis of a five year supply of sites - and the policy can only be of limited significance to this application.

Bearing Fruits 2031: 2014 Publication version of the Swale Borough Local Plan: Part 1

- 5.16 The Council's Publication version of the draft Local Plan, entitled *Bearing Fruits* 2031, was published in December 2014 and is currently being examined.
- 5.17 Policy CP 3 of the draft Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments. Policy DM10 sets out criteria for assessing windfall gypsy site applications. For the moment the remain unadopted and carry little weight, however the Plan is currently undergoing review by the Local Plan Inspector.

Site Assessment

- 5.18 The Council's February 2014 Gypsy and Traveller Site Allocations: Issues and Options consultations document recommends a new methodology for how to assess site suitability for determining whether or not to allocate a site. Although this was primarily intended to rank potential site allocations, it was agreed by Members of the LDF Panel in June 2014 to be used as a material consideration in planning applications. Even though this is normally done in relation to the potential suitability of a fresh site, given that its publication post-dates the previous grant of temporary permission on this site I have considered it in formulating this recommendation to be sure that the recommendation is up-to-date. This assessment is a Red/Amber/Green staged approach to site suitability, with any site scoring Red in any stage not being progressed to the next stage.
- 5.19 The red scores mean that the site should not proceed to Stage 3 and will not be a candidate site for a future allocations policy. Blackthorne Lodge (and, indeed, many of the other sites along Greyhound Road) scores red in a number of categories, including domination of nearest settled community; site access; and access to facilities. It is therefore not considered suitable as a permanent site this has been the Council's stance in regards to all gypsy and traveller applications along Greyhound Road for a number of years.
- 5.20 The proposed timetable for Part 2 of the new Local Plan included production and consultation upon a preferred options document in Summer 2014 (now completed). The adoption of Part 2 of the Local Plan is currently dependent upon the successful adoption of Part 1 of the Local Plan. Should the Examination Inspector finds problems with Part 1 of the Local Plan, Officers are likely to suggest that all pitch provision matters be deferred to Part 2 to enable Part 2 of the Local Plan to progress independently of Part 1.

Five year supply position

5.21 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the

- commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.

The latest position of site provision

- 5.23 Evidence to the current Local Plan examination is that the Council has reinterrogated the GTAA to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data reveals 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
- 5.24 Accordingly, the need for pitches in Swale has been re-evaluated, resulting in a reduced estimate of pitch need of 61 pitches over the Plan period to 2031.

Of these 51 have already been granted permanent planning permission meaning that the outstanding need is just 10 pitches to 2031. The Council considers that on the basis of past trends this need could easily be met from windfall proposals.

- 5.25 As a result of this analysis, the Council is suggesting through main modifications to its draft Local Plan that the future need be based on a figure of 61 pitches, leaving a need per year of 0.7 pitches and, that no formal pitch allocations will be needed. Policy DM10 would be revised to deal with these windfall applications and policy CP3 would be removed from the Plan. Accordingly, a Part 2 Local Plan would not be required. The Local Plan Inspector endorsed this approach at the Inquiry sitting in November this year. Full, formal, acceptance of this stance relies upon a further round of public consultation, but based on the representations received up to this point it is not envisaged that there will be a significant deviation.
- 5.26 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.
- 5.27 To conclude on this subject, it seems that there is no reason to see approved but unimplemented pitches as other than as part of a five year supply. Nor should potential ethnic grouping issues rule them out of consideration where this applies. However, there appears to be a question in Inspector's minds regarding whether such sites should be afforded full weight in relation to the prospects of them being suitable for a particular appellant, and whether they will wish to, or be able to, occupy such a site for reasons of ethnicity, or availability for other than families of the current site owners. In this case the site owners/applicant are not gypsies so this consideration does not need to be undertaken.
- 5.28 The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy, and therefore what number of required pitches need to be identified. The Council has addressed this by re-interrogating the GTAA data and presenting a number of options for the way forward to the Inspector at the current Bearing Fruits Local Plan Examination. At the time of writing the Inspector has yet to consider or decide which option is appropriate and in the mean time it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.

6.0 LOCAL REPRESENTATIONS

6.01 Minster Parish Council has objected to the application, commenting:

"Although the appeal was allowed and the enforcement notice quashed the Inspector made some very clear deliberations which looked at:

- i. whether or not the development of the site is sustainable, having regard to accessibility to local services.
- ii. the effect of the development on the character and appearance of the surrounding area.
- iii. whether or not the development of the site is sustainable and encourages social inclusion
- iv. the need for and provision of sites for gypsies and travellers in the area and the availability of alternative sites
- v. the appellant's need for a settled site and personal circumstances."
- 6.02 They continue on to state that (in summary) the site is in an unsustainable location; the development is harmful to the character and amenity of the countryside; the development does not encourage social inclusion and dominates the local settled community; that the Brotherhood Wood site could accommodate additional pitches to satisfy local need; and that the remote location does not contribute positively to the applicant's healthcare requirements.

7.0 CONSULTATIONS

7.01 The Council's Environmental Health Manager has no comments.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Of particular relevance is the appeal for Woodlands Lodge, a neighbouring gypsy / traveller site on Greyhound Road, under ENF/13/0036 and APP/V2255/C/13/2208507.
- 8.02 An enforcement notice was served on 14 October 2013 in respect of the applicant having moved on to the site unlawfully. The breach alleged within the notice was "without planning permission, the material change of use of the land to land used as a caravan site for the stationing of caravans/ mobile homes used residentially, including the erection of a utility building(s) and the laying of hard-surfacing" at land now known as Woodland Lodge, Brambledown, Greyhound Road, Minster.
- 8.03 The appeal was allowed largely on the personal circumstances of the applicant, but also as the Council could not identify other sites to which the applicant could relocate and with the Inspector commenting (at paras. 41 and 43 of the decision):

"In terms of the site's location, it is remote and lacks access to local facilities. It is unsuitable and unsustainable for a caravan site. Added to that is the harm caused by the development to the character and appearance of the surrounding area. That harm cannot be overcome by landscape planting. Accordingly, the development conflicts with LP Policies E1 and E6, and

advice contained in paragraphs 11 and 23 of the PPTS, because of the harmful environmental impact. I attach substantial weight to these findings.

On balance, however, taking all of these considerations into account, I conclude that the identified harm that arises from the development outweighs my findings on the positive aspects of the development. On this basis, a permanent permission should not be granted at this time."

9.0 APPRAISAL

- 9.01 There have been a number of applications for gypsy / traveller plots at Greyhound Road dating back to around 2008. When considering each of these the Council has consistently maintained the position that the location is unsuitable for permanent gypsy / traveller accommodation.
- 9.02 Greyhound Road is somewhat remote from shops and services. Pedestrian access is via Lower Road, which is a main Road with a 60mph limit, and has no street lighting and no footway. Although there are more remote sites within the Borough this location is far from ideal and does not, in my view, represent a sustainable or sensible location. Furthermore when one considers the proliferation of gypsy / traveller sites on Greyhound Road and their distance from the settled community it seems to me that this site would not achieve the aims of the PPTS in terms of promoting integrated co-existence between the site and the local community.
- The PPTS also suggests that local planning authorities should have due regard to the protection of local amenity and local environment and ensure that traveller sites are sustainable economically, socially and environmentally. The PPTS makes it clear 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." PPTS goes on to say that "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." It is worth noting that the word "very" was added to this paragraph in the 2015 re-issue of PPTS which implies to me that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this one can do to the character of open countryside.
- 9.04 The proliferation of sites on Greyhound Road has caused some harm to the character and appearance of the street scene and the wider countryside. An area of woodland has been removed to make room for the various plots and, as a result, a number of the sites although not especially Blackthorne Lodge due to its position within the road are prominent in views from the Lower Road and give rise to a harsh urbanised appearance that is contrary to the

- rural character of the area. I am not convinced that landscaping entirely mitigates this harm.
- 9.05 The number of sites on Greyhound Road has also reached a point at which they dominate the local settled community at Brambledown and the small unmade local roads nearby.
- 9.06 The unsuitability of the location along with the harm caused, as set out above, is a clear indication that permanent planning permission should not be granted. The Inspector's decision on the Woodlands Lodge appeal (as above) supports this assertion, and provides a clear steer for the Council.
- 9.07 However I consider that there has been a significant change in relevant considerations since the original grant of temporary permission for this site in 2011, with a very strong growth in the number of permanent permitted pitches within the Borough, and the evolution of the Council's policy approach to gypsy and traveller sites.
- 9.08 I understand that at the end of the 2014/2015 annual monitoring year 47 permanent gypsy and traveller sites had been permitted. According to the strictest supply calculation, that represents a more than five year supply of sites in just two years, with approval of more windfall sites likely. As such, I see no overriding need for sites that suggests that a site with such clear environmental and sustainability objections should be approved on a permanent basis. Any re-calculation of need following the re-issue of PPTS can only reduce the need figure, but that is an argument that I do not feel needs to be given weight here.
- 9.09 This situation may improve still further with new sites coming forward on new major development sites or through windfall applications. However, there is not yet a set of currently genuinely available sites for this applicant to relocate to, and it is unlikely that there will be in the immediate future. This suggests that more time than initially thought is required to see the future of the applicant resolved and further clarification on gypsy and traveller policy would be established through National Planning Policy Guidance and through the adoption of the Local Plan .
- 9.10 This suggests that there is a need to grant further temporary permissions for the existing sites along Greyhound Road, including the current application site, to enable the applicants to find alternative accommodation.
- 9.11 I therefore recommend that condition 7 be varied to grant the applicants temporary permission for a further year, which will give time for them to investigate alternative accommodation and for the Council to continue to review its position in regards to the supply of sites.
- 9.12 I note local objections in regards to the continued use of the site but consider that the Council's position is not strong enough in terms of being able to direct the applicant to alternative sites to justify an outright refusal of permission at an appeal. In this regard I would revisit the previous Inspector's decision, as

above, in which the Inspector comments "I find that in the immediate future, the prospects of finding an affordable, acceptable and suitable alternative site with planning permission in the Borough appear limited."

10.0 CONCLUSION

- 10.01 The application seeks to remove condition (7) of planning permission SW/11/1415 to allow permanent residential use of the site by two gypsy families. The Council has long held the view, which has been supported at appeal, that the site is not suitable for permanent accommodation, and the Council has now effectively met its 5-year supply target, but at this stage we are unable to direct the applicant to available alternative pitches.
- 10.02 Taking the above into account I recommend that a further temporary permission be granted for a period of 1 year to allow time for the applicant to find suitable alternative site.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) The use hereby permitted shall be for a limited period being the period of one year from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.

<u>Reasons</u>: As permission has only been granted in recognition of the particular circumstances of the case, having regard to the lack of alternative, available sites elsewhere within the Borough, in accordance with DCLG Planning Policy for Traveller Sites.

- (2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites.
 - <u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.
- (3) No more than two static caravan and two touring caravan shall be stationed on the site at any one time.
 - <u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.
- (4) 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, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

<u>Reasons</u>: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

(5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reasons: In the interests of preventing light pollution.

(6) The access details shown on the plans approved under SW/11/1415 shall be maintained in accordance with those details.

Reasons: In the interests of highway safety and convenience.

(7) No building or structure shall be erected or stationed within 8 meters of the adopted drainage ditch.

<u>Reasons</u>: To ensure the use does not give rise to concerns over localised flooding.

(8) The area shown on the layout approved under SW/11/1415 as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

<u>Reasons</u>: To ensure the use does not prejudice conditions of highway safety and convenience.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

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

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

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

APPENDIX TO BE INSERTED



Planning committee Blackthorne Codge, Greybound Rd.

Gypsy and Traveller Site Allocations Assessment Methodology

Stage 1 - Is the site available?

Site Assessment Table: Stage 1 - Site availability						
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria		
Availability		Owner confirmed site not available, nor is	Site availability uncertain	Willing landowner		
Is the site available and deliverable?		likely to become available over plan period	incertain			

IF RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 2.

Stage 2 - Suitability/ Constraints

Criteria and Issues	Assessment reference !-	Pod Describer	Ambar Mark	O. L. Furt
Criteria and issues	Assessment references in addition to National Planning Policy Framework (NPPF), National Planning Guidance (NPG)	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fülly meets criteria
Flood Zone Flooding and risk to residents	Swale Strategic Flood Risk Assessment (SFRA) and Environment Agency guidance	Flood zone 3/ cannot be mitigated	Flood zone 2 or 3 but with acceptable mitigation to the satisfaction of the Council and Environment Agency	Flood zone 1
Landscape Impact on designations or on landscape character/quality	Kent Downs AONB Management Plan 2009. Landscape Character and Biodiversity Appraisal SPD. Advice from Natural England and other environmental bodies	1. a landscape designation, or 2. will affect the setting of a designation; or 3. is within an Area of High Landscape Value with unacceptable detrimental impact or	Within close proximity of a designated area but, and where landscape impact may be mitigated	Outside designated area and not affecting the setting of a designation/ No impact
		where landscape impact cannot be mitigated including cumulative impacts		
Biodiversity Impact on biodiversity of known protected species	Advice from KCC Archaeology Officers, UK/ Kent/ Swale BAP, advice from Natural England and environmental bodies	Site is within or affecting international, national or locally designated sites with unacceptable detrimental impact or where impact cannot be mitigated including cumulative impacts	Site is within, close proximity to or affecting international, national or locally designated sites where impact could be mitigated	Outside of any designation and not affecting the setting of a designation/No impact
Scale of site or multiple sites Scale dominating nearest settled community	Officer assessment - considering quantity of existing sites against scale and form of existing settlement/settled community and advice from service providers	Has significant dominating effect	Scale has some impact	Scale has little or no impact
Archaeology and	Heritage asset list and advice from heritage	Unacceptable detrimental impact on scheduled	Possible impact /minor impact on scheduled	Not in close proximity to Scheduled Ancient

Conservation Impact on Scheduled Ancient Monument or other heritage asset/non designated heritage asset	advisors	ancient monument/other heritage asset/non designated heritage assets	ancient monument/other heritage asset/non designated heritage assets	Monument/other heritage assets
Contamination Unacceptable living conditions	Consult Land Contamination Planning guidance Document 2013 and Contaminated Land Strategy 2010	Site is contaminated and cannot be mitigated	Site is or is potentially contaminated - potential impact likely to be mitigated	No known contamination issues
Noise and disturbance issues Unacceptable living conditions	Consult Noise and Vibration: Planning Guidance Document 2013	Site located adjacent to noisy land use – cannot be mitigated	Site located adjacent to noisy land use - potential impact likely to be mitigated or low level	No noisy adjacent land uses
Site access and safety Access/Proximity to major roads and pedestrian routes	Any transport information submitted and Kent Highways Services assessment/advice	Remote location accessed by unmade roads/ poor roads or unresolvable highway safety issue	Some access to road network and site – potentially requiring mitigation or highway safety issue and possibly capable of mitigation	Good site and road access and no significant highway safety concerns
Accessibility to facilities GP surgery, Primary School, Shops, Public Transport	Desk top review	None or few within reasonable distance	Reasonable distance to most services	All within reasonable travelling distance

IF ANY SCORE RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 3.

Stage 3 - More detailed site suitability

Site Assessment Table: Stage 3 - Detailed suitability						
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green- Fully meets criteria		
Topography Uneven or unsafe ground levels and structures	Site survey by Officers and landscape evidence submitted	Steep slope which makes site unsuitable	Sloping land which may require works to make site suitable for use	Level or gently sloping site		
Residential Amenity Impact on amenity of proposed and existing residents	Officers' assessment - same as housing, overlooking, disturbance from vehicle movements, loss of light, overcrowding etc	Close proximity to existing adjacent uses especially residential properties where any potential impact (light, visual, other disturbance). Has unacceptable impact which cannot be mitigated	Some impact on residential amenity – likely to be mitigated or low level	No impact on residential amenity		
Utilities Electricity, Gas, Water, Drainage/ Sewers (mains or cesspit)	Site visit and utility providers advice	Not applicable as a reason for discounting a site	Yes – most (3 or 4)	Yes – all		
Site capable of live/ work mix Priority for sustainable	Site visit/ submitted details	Not applicable as a reason for discounting a site	No or maybe	Yes		

locations				
Parking	Site visit and Kent Highways Services advice	No parking/ turning and no potential to provide parking	Inadequate parking/ turning or	Sufficient parking and turning space
Sufficient parking and turning space		and turning space	limited potential to provide parking and turning space	
Landscaping Sufficient landscaping for amenity/impact on landscape character	Site visit and Swale Landscape Character and Biodiversity Assessment 2010, Planting on New Developments: A Guide for Developers	Not applicable as a reason for discounting a site	No soft landscaping/ landscaping could impact on landscape character area	Site has existing soft landscaping/ option to provide soft landscaping



2.9 REFERENCE NO - 15/506307/FULL

APPLICATION PROPOSAL

Change of use of offices for use as an Ambulance Community Response Post (Sui Generis class use)

ADDRESS Offices Next To 1 Transit Works Power Station Road Minster-on-sea Kent ME12 3AD

RECOMMENDATION Grant subject to conditions and the receipt of amended site plan clarifying the site area and premises

SUMMARY OF REASONS FOR RECOMMENDATION

Application proposes the siting of a valuable community healthcare facility within a location that serves the strategic needs of the ambulance service, and which would not give rise to any serious amenity issues.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Minster Cliffs	PARISH/TOWN COUNCIL Minster On Sea	APPLICANT South East Coast Ambulance Service NHS Foundation Trust AGENT
DECISION DUE DATE	PUBLICITY EXPIRY DATE	OFFICER SITE VISIT DATE
12/10/15	12/10/15	19/10/15

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/81/0601	Change of use from garages / workshop to light industrial.	Approved	10.08.81
SW/11/1624	Outline permission for residential development of the site (up to 46 dwellings).	Approved	02.07.12

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 Application site comprises a detached, single-storey brick building, and an area of hardstanding at Power Station Road, Halfway. However the red edge site plan appears to include a number of other buildings, not relevant to the consideration of this application and therefore I have sought clarification from the applicant on this issue. I will update members further at the meeting.

- 1.02 The building sits adjacent to the highway and to the front of a complex of buildings occupied by a number of different businesses including the Chainstore Massacre retail store and a vehicle repair garage. It has previously been used as offices.
- 1.03 Permission was granted for redevelopment of the whole site (application building and adjacent warehouse building) for residential use, although that permission has recently expired. Members may also be aware of 15/508025, which seeks reserved matters approval for residential development of up to 142 units on the adjacent site, the former HBC engineering works.

2.0 PROPOSAL

- 2.01 The application seeks permission for use of the building as an Ambulance Community Response Post (ACRP), which will serve as a remote base for ambulance crews to station themselves at during shifts. The proposal is part of NHS restructuring which will see ambulance stations replaced with larger Make Ready Centres (MRCs) providing a central base for start and end of shifts, and ACRPs acting as local bases / rest centres for ambulance crews to be stationed at while on shift. The ACRP therefore acts a form of welfare area for the crew, as well as providing a local base from which to respond to calls.
- 2.02 The submitted covering statement explains:

"The office accommodation at Transit Works in Power Station Road in the Halfway area of Sheppey has been identified as a location for an ACRP. Following an extensive search of the local area, the application site was identified as the place that best achieves the strategic aims of the Trust, and will aim to maximise response times to emergencies, ensuring speedy and efficient delivery of services. This will replace the current Ambulance Station in Queenborough, which will enable us to cover the Sheerness, Queenborough and Minster areas more effectively as we struggle to achieve this from the current ambulance station and this new location is more centrally location.

We are proposing to lease the office space at Transit Works and use it as a rest facility for 1 ambulance crew (up to three staff at any one time). Occasionally we may have another vehicle at this location if activity elevates dramatically and is required (at peak summer periods for example) – or it may be located at the roadside at a location in the surrounding area.

There will be no medicines / drugs stored at the ACRP and staff will not be reporting for duty there either — it is simply a facility where crews can rest between jobs, and be properly refreshed to be able to deal with the next emergency call they go to. This ACRP would be in use 24/7 all year round and we have provided a transport statement which details our anticipated movements and noise implications which we may have — which we believe to be minimal."

- 2.03 The submitted layout plan shows an ambulance parking bay to the front of the offices, within the existing hardstanding / parking area.
- 2.04 No external changes to the building are proposed.

3.0 PLANNING CONSTRAINTS

3.01 The site lies within and area of Potential Archaeological Importance, and Environment Agency Flood Zone 3.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) encourage the provision of new or enhanced social and community facilities, recognising the wider benefits that such developments can bring to communities.
- 4.02 Paragraph 3.182 of the adopted Swale Borough Local Plan 2008 states that "existing services and facilities are provided by both public and private organisations. In all instances, the Council is keen to encourage facilities to be used to their maximum potential, for the benefit of local residents and visitors, and for them to be expanded when required."
- 4.03 Further to this Policy C1 of the Local Plan states that "where proposals would meet an identified local need in an accessible location [the Council] will permit development proposals that will help maximise the use of existing public and private community services and facilities, including those that would make them available for wider public use, in locations where shortfalls in local public provision could be met."
- 4.04 Policies E1 and T3 of the Local plan are also relevant, and seek to ensure that developments do not give rise to seriously amenity impacts and that adequate parking is provided for all new developments.

5.0 LOCAL REPRESENTATIONS

5.01 None.

6.0 CONSULTATIONS

6.01 Minster Parish Council object to the proposal:

"...on the grounds that the proposal will result in noise and disturbance in a predominately residential area which will impact on the amenities residents might reasonably be expected to enjoy. Also although not material considerations, Minster-on-Sea PC would like to confirm its support for Swale Borough Councils view about vehicle access into Power Station Road that there may be a problem with vehicles parking across the entrance to the site due to the lack of on street parking

restrictions noting that if the proposal goes ahead, these restrictions will take approx. 12 months to introduce. The Parish Council considers the Sheppey Community Hospital Site to offer a better location due to its closer proximity to the main spinal roads."

- 6.02 The Environment Agency consider the scheme to be low-risk, noting that the building would be a form of amenity block rather than an ambulance station, and would not be seriously affected during a flood event.
- 6.03 Kent Highway Services have no objection, but suggest that the Council may wish to condition the use of the building to prevent conversion to a potentially more intensive ambulance depot.
- 6.04 The Council's Technical Engineer rasies no objection, but notes that there are no on-street parking restrictions along Power Station Road and "whilst there may not be a problem with vehicles parking across the entrance to the site it may be something to be considered."

7.0 BACKGROUND PAPERS AND PLANS

7.01 The application is accompanied by a full Design & Access Statement, flood risk assessment and transport impact assessment.

8.0 APPRAISAL

- 8.01 The change of use would result in the loss of office accommodation, but I consider the wider community benefits of the proposal to weigh heavily in favour of approving the application. Therefore, whilst I note that no market testing information has been submitted to demonstrate that the building is no longer viable for employment use as required by Policy B1 of the Local Plan I consider the development to be acceptable in principle as an exception.
- 8.02 The site lies within the built up area and close to a number of residential properties. I note the Parish Council's concern in regards to noise and disturbance from ambulance movements, but it must be reiterated that this will be an amenity building and not an ambulance station. It is unlikely that the crew / ambulance will be stationed there for the entire duration of the shift, and will only be returning there for refreshment when time allows. It is therefore unlikely that the ambulance siren will be used for long periods of time.
- 8.03 The submitted transport assessment comments:

"Sirens would only be used where and when necessary in accordance with our driver training programme (and is not normally required during the early hours, as their sole purpose is to warn other road users of our presence — bearing in mind the very light amount of traffic there will be during the small hours, this disturbance will be at a minimum). Traffic movements during the night time hours would be very minimal, so

therefore thus noise disturbance would normally at an absolute minimum given the light amount of traffic during these hours."

- 8.04 Furthermore the Road Vehicles (Construction and Use) Regulations 1986, at paragraph 97, state that "no motor vehicle shall be used on a road in such manner as to cause any excessive noise which could have been avoided by the exercise of reasonable care on the part of the driver." Ambulances leaving the site would therefore not be permitted to sound their sirens unless road conditions made it necessary. Power Station Road is, generally, not highly congested and it is therefore unlikely that the ambulance would use its sirens during anti-social hours.
- 8.05 Use of the building itself is unlikely to generate significant levels of noise. I therefore consider that the use of the site would not give rise to any serious amenity issues for neighbouring residents.
- 8.06 I also note the Parish Council's suggestion that the ACRP should be located near to the community hospital. However I understand the logic in the Ambulance Service wanting to be on this particular site, as it is roughly equidistant from Sheerness, Minster and Queenborough, and would allow for better response times across the area than if they were located in the centre of Minster.
- 8.07 The potential for vehicles to block the site access is not a reason to refuse planning permission.
- 8.08 I note KHS' suggestion regarding restricting the use of the site, and have included an appropriate condition below to prevent the use intensifying.

9.0 CONCLUSION

- 9.01 The application proposes change of use of a single storey office building to an Ambulance Community Response Post, which would serve as a remote amenity building for ambulance crews to rest between calls while away from the main ambulance station (to be relocated to Medway under upcoming restructuring).
- 9.02 The development is acceptable in principle and would not give rise to any serious issues of local amenity or highway safety, and I therefore recommend that planning permission should be granted.
- **10.0 RECOMMENDATION** GRANT Subject to clarification on the site area/premises and the following conditions:
- 1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
 - <u>Reasons</u>: 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 ambulance parking bay shown on the submitted plan shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

<u>Reasons</u>: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

3. The premises shall be used for the purpose of an Ambulance Community Response Post and for no other purpose.

<u>Reasons</u>: In recognition of the terms of the application and in the interests of the amenities of the area.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the application was acceptable as submitted and no further assistance was required.

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

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

2.10 REFERENCE NO - 15/507823/FULL

APPLICATION PROPOSAL

An application for the removal of condition 8 of planning permission SW/07/0684 (Erection of bungalow following demolition of existing dwelling) - being replacement dwelling as ancillary to The Wold Holiday Park.

ADDRESS The Wold Caravan And Chalet Park, Second Avenue, Eastchurch, Kent, ME12 4ER

RECOMMENDATION - Approve

SUMMARY OF REASONS FOR RECOMMENDATION

A dwelling has existed on the site since before the creation of the associated holiday park, and it appears that an occupancy condition was unreasonably imposed upon the dwelling when it was rebuilt in 2007.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection.

WARD Sheppey East	PARISH/TOWN COL Eastchurch	JNCIL	APPLICANT Mr And Mrs T Arnold AGENT
DECISION DUE DATE	PUBLICITY EXPIRY	DATE	
24/11/15	23/10/15		

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal					Decision	Date
SW/07/0684	Demolition	of	former	bungalow	and	Approved	2007
	erection of re	erection of replacement bungalow.					

The original bungalow was a prefab-style dwelling and was in poor condition. This permission granted consent for erection of a replacement dwelling (now known as Oak Lodge) that met modern living standards. Condition (7) tied the use of the dwelling to the adjacent caravan / chalet park (i.e. as a manager's dwelling).

NK/8/60/99	Use of land as a chalet and caravan park.	Approved	1960
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Planning permission granted for the creation of a chalet and caravan park on land to the side and rear of Oak Lodge.

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is a dwelling known as Oak Lodge, Second Avenue, Eastchurch. It is a modern detached bungalow located directly adjacent to The Wold Caravan Park, and currently serving as the manager's accommodation.

1.02 The current bungalow was erected in 2007 following approval of planning permission SW/07/0684, which granted consent for the demolition of the existing pre-war, pre-fab bungalow that had fallen into a considerable state of disrepair. That original dwelling was erected in approximately 1933, and predated the caravan park by several years.

2.0 PROPOSAL

- 2.01 The application seeks permission for removal of condition (8) of planning permission SW/07/0684 to allow unrestricted residential use of the bungalow. The applicants have stated that they wish to retire from managing the park, but to remain living at the property.
- 2.02 Condition (8) states:
 - (8) The replacement dwelling hereby permitted shall remain in perpetuity ancillary to The Wold Holiday Park and the access from the holiday park to the dwelling shown on the approved plans shall be retained for vehicular access and maintained as such in perpetuity unless otherwise agreed in writing by the District Planning Authority.

Grounds: In accordance with the application particulars and to ensure the approved dwelling remains part of the holiday park and in pursuance of Policy G1 of the Swale Borough Local Plan.

2.03 Prior to the imposition of condition (8) of SW/07/0684 there was no occupancy restriction on the dwelling.

3.0 PLANNING CONSTRAINTS

3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) aim to restrict development within the countryside unless necessary or justified.
- 4.02 Policies E1, E6, H2 and B8 of the adopted Swale Borough Local Plan 2008 are relevant. Policy B8 in particular, which supports the provision and retention of manager's accommodation at holiday parks.

5.0 LOCAL REPRESENTATIONS

5.01 None.

6.0 CONSULTATIONS

- 6.01 "Eastchurch Parish Council Planning Committee objects to this application and wishes to make the following points:
 - This would leave the site without an on-site Warden presence/security.
 - This application goes against the original approved application which tied the property to the holiday park site in perpetuity.
 - The committee are concerned that approval would set the precedence for other ancillary buildings/warden properties on this and other sites."

7.0 BACKGROUND PAPERS AND PLANS

7.0 The application is supported by a number of documents relating to Building Control sign-off for the new dwelling, but I do not consider them relevant to this proposal.

8.0 APPRAISAL

- 8.01 The key consideration here is the planning history for the property, which has been mentioned above.
- 8.02 The original dwelling was erected in approximately 1933 and stood on a large plot of land. There was no occupancy condition attached to that dwelling as it was erected prior to the introduction of the planning system (1948). Then, 33 years, later planning permission was granted for the formation of a caravan / chalet park (now known as The Wold) on land surrounding that bungalow. Again, no occupancy condition was attached to the dwelling.
- 8.03 It was only in 2007, after grant of planning permission for erection of a replacement dwelling on the site, that a condition restricting the occupancy of the property to being in association with the holiday park was attached to the property. I consider this to have been erroneous there appears to have been no justification for the property to be tied to the holiday park, given its long history prior to the formation of the park around it.
- 8.04 In this regard, whilst I note that policy B8 of the Local Plan aims to retain existing warden's / manager's accommodation, I believe it would be unjust of the Council to insist upon retention of condition (8) of SW/07/0684 in this instance. This may lead to a further application for new manager's accommodation, but the Council would need to consider that, if or when the occasion arises.
- 8.05 This is an unusual situation and I do not consider that approval of this application would lend any weight to or create any sort of precedent for variation of similar conditions at other holiday parks within the Borough.
- 8.06 In this regard I do not share the Parish Council's concerns.

9.0 CONCLUSION

- 9.01 This application seeks permission for removal of condition (8) of planning permission SW/07/0684 that ties the occupancy of the dwelling known as Oak Lodge to the manager / warden of The Wold Caravan Park. The condition was wrongly applied to the property in 2007 when the previously run-down pre-war bungalow was demolished and rebuild, and there is no justification for the property to be tied to the caravan park.
- 9.02 Taking the above into account I recommend that planning permission should be granted.

10.0 RECOMMENDATION – GRANT unconditional permission.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance the application was acceptable as submitted and no further assistance was required.

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

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

2.11 REFERENCE NO - 14/502304/FULL

APPLICATION PROPOSAL

Variation of condition 2 of T/APP/V2255//84/024617/P2 to extend occupancy from 8 months to 10 months

ADDRESS Myrtles Horseshoe Caravan Park Bell Farm Lane Minster-on-sea Kent ME12 4JB

RECOMMENDATION – Grant with conditions

SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL

Variation of condition to allow for 10 month holiday occupancy is in accordance with Council's new corporate policy for holiday homes and PoliciesDM3 (Rural Economy), DM4 (New Holiday Parks and Extensions) and DM5 (Occupancy of Holiday Parks) of the emerging Swale Borough Local Plan, Part 1, 'Bearing Fruits 2031'.

REASON FOR REFERRAL TO COMMITTEE

Parish Council objection

WARD Minster Cliffs	PARISH/TOWN COUNC Minster On Sea	IL APPLICANT Mrs Rosemary Shiel AGENT HCMC
DECISION DUE DATE	PUBLICITY EXPIRY DAT	Ξ
05/08/15	14/07/15	

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
-SW/83/476	Extension of caravan site for 20 caravans	Refuse	5/02/1985
SW/84/970	Established Use Certificate for 20 caravans	Refuse	09/11/1984
T/APP/V2255/A/ 84/018360/P2 & 024717/P2	Appeal to Secretary of State in respect of refusal of SW/83/476 & SW/84/970 in respect of conditional permission for the extension of caravan park by 20 caravans	Appeal Allowed	21/03/1985

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 This site n the rural area of the Isle of Sheppey, one mile to the east of Minster, consists of an 'L' shaped caravan site, 0.6ha in area, is located on the south side of and with an entrance onto Bell Farm Lane. The North coastal shore of the island, part of the designated North Shore SSSI, is located some 100m to the north.

- 1.02 Horseshoe Caravan Park is one of the smaller caravan parks on the island and presently has around 50 pitches consisting mainly of park homes, has a staff bungalow and a club house both located on the site.
- 1.03 The layout of the site is typical for its type consisting of serviced concrete hard standings positioned within grassed pitches and metalled service roads and parking areas. The site benefits from a dense tree and hedge screen with intermittent mature hedge and tree planting internally.

2.0 PROPOSAL

- 2.01 Condition 2 of the planning permission granted on appeal on 21st March 1985 for an extension to the holiday caravan park limited the use of the caravan site to 8 months in any year by prohibiting occupation between 1st November and 28th February in any one year. This application seeks to vary this condition to allow for occupancy for up to 10 months in any calendar year in line with the occupancy restrictions that are now in place in respect of other caravan sites in Bell Farm Lane and across the Island.
- 2.02 Other than the variation of the occupancy condition, no other alterations to the operation of layout of the caravan site is sought in this application

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.6ha	0.6ha	Nil

4.0 PLANNING CONSTRAINTS

4.01 There is a Tree Preservation Order on a group of trees at Kozy Nook, adjacent, but these would not be affected by this proposal.

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF) was adopted on 27 March 2012 and became a material consideration to be taken into account in decision making.
- 5.02 Planning law requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF acknowledges that some development plan policies will need to be updated to take into account some of its provisions, and this is being undertaken through the emerging Local Plan.

- 5.03 The adopted development plan is the Swale Borough Local Plan 2008. The transitional arrangements for the NPPF mean that for the twelve months to 27 March 2013, decision makers could continue to give full weight to relevant policies in the Local Plan, even if there is a "limited" degree of conflict with the NPPF.
- 5.04 After 27 March 2013, however, weight can still be given to the 2008 Local Plan policies according to their degree of consistency with the NPPF (the closer the fit, the more weight may be given).
- 5.05 While most of the draft development management policies in the emerging "Bearing Fruits" document seem broadly consistent with the NPPF, it does raise the bar in terms of needing to ensure that plans were positive and proactive in terms of providing for development through:
 - · positively seeking opportunities to meet the development needs; and
 - Meeting objectively assessed needs unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 5.06 Each of the "saved" Local Plan policies (as listed in the back of Bearing Fruits) was assessed in terms of its compliance with the key provisions of the NPPF. The wording of most of the Local Plan (2008) policies is quite positively and broadly compliant with the more detailed provisions of the NPPF including policies E1, E6, and B6 as noted below.
- 5.07 Policy E1 of the adopted Swale Borough Local Plan 2008 seeks to ensure that all development proposals, amongst others, be well sited and of a scale, design and appearance that is appropriate to the location and cause no demonstrable harm to local amenity. Policy E6 aims to prevent unnecessary and unjustified development within the countryside of the Borough.
- 5.08 E19 of the Local Plan focuses on design, specifically, and comments that all development proposals should enrich the qualities of the existing environment by promoting and reinforcing local distinctiveness and strengthening the sense of place. The policy wording continues to state that new development should be appropriate to its context.
- 5.09 Policy B6 of the Local Plan states that permission will not be granted for new caravan or chalet parks outside of the existing designated holiday park areas. It does, however, state that proposals to improve and enhance existing facilities or to upgrade the quality of existing tourist accommodation will be supported.
- 5.10 Further to this; Policy B7 states that any planning permission for new or redeveloped holiday parks will be subject to a planning condition and / or legal agreement to restrict occupancy to March October, and an additional 11 day Christmas / New Year period.

- 5.11 However; policy B7 has been superseded and replaced by the Council's new corporate policy for holiday homes. It allows for occupation of the chalets / caravans between March and December, and the 11-day holiday period, and firmly establishes the principle of approving applications such as this. The above conditions and text extracts from the corporate policy, and the discussion below, clearly illustrate the Council's revised position on the matter.
- 5.12 The Local Development Framework Panel's agreement, on 21 June 2011, reviewed the previous policy standpoint in regards to the occupancy restrictions on the Borough's holiday parks, and agreed to make it Council corporate policy to support applications to extend their occupancy periods from eight to ten months.

The report put before the LDF panel commented:

"This report outlines a proposed change in policy in respect of holiday homes occupancy periods. The review is in response to a request from the Sheppey Local Engagement Forum to re-examine the occupancy conditions on holiday homes in the Borough. It is argued that this extension in occupancy will lead to investment and improving quality of the holiday parks by the operators and it will deliver tourism benefits and support for the local economy.

Following discussions with the holiday park operators, a new policy which would enable holiday homes to have extended occupancy periods from the current 8 months to 10 months has been drafted whilst ensuring safeguards, as far as possible, that holiday homes should be used as second homes rather than as permanent dwellings. A set of conditions and obligations which would be attached to any planning permission...

It is considered that these safeguards will ensure that the holiday homes are retained as secondary holiday homes and do not become the main residences of their occupiers. It should be noted that the current 8 month occupancy does not insist on any of these safeguards so people can stay for the whole 8 months and use it like a permanent home, which does not add as much to the local economy as lots of short holidays."

6.0 LOCAL REPRESENTATIONS

6.01 Swale Footpaths Group comment that the submitted drawings are unclear whether the nearby public footpath would be affected. (This application is for a longer occupancy period and no development is proposed that would affect the path.)

7.0 CONSULTATIONS

7.01 Minster on Sea Parish Council: objects to the planning application: reasons given are concern that this will set a precedent and lead to misuse through illegal permanent occupation. The Parish Council reiterates its previous view that construction is inadequate for all year round occupation.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 There is no recent planning history for this site. A copy of the Inspectors decision letter of 21st March 1985 is attached for information.
- 8.02 Of particular relevance, however, are the following applications, all of which have granted 10-month occupancy at holiday parks on the Island:
 - SW/14/0405 (Vanity Holiday Park);
 - SW/13/0319 (Vanity Holiday Village);
 - SW/13/1102 (Redcot Caravan Park);
 - SW/13/0330 (Warden Bay Caravan Park);
 - SW/12/0358 (Lazy Days):
 - SW/12/0024 (Plough Caravan Park); and
 - SW/12/0080 (Sheerness Holiday park), amongst others.

9.0 APPRAISAL

Principle of Development

- 9.01 The Council has, historically resisted applications to extend the occupancy periods at the various holiday parks on the Island and this has been reflected, until recently, in Saved Policy B7 of the Local Plan adopted 2008 that required any planning permission for new or redeveloped holiday parks to be subject to a planning condition/legal agreement to restrict occupancy to March October with an additional 11 day period allowed to accommodate occupancy during the Christmas and New Year period.
- 9.02 However, in view of the decline in the tourist industry, it was considered appropriate to review this stance in respect of restrictive conditions to caravan parks. Therefore a proposal to support applications seeking to extend holiday park occupancy from 8 to 10 months was put before, and agreed by the Local Development Framework panel on 21 June 2011. Policy B7 has now been effectively superseded by the Council's new corporate policy for holiday homes. This allows for occupation of the chalets / caravans between March and December, and the 11-day Christmas period, and firmly establishes the principle of approving applications such as this (as too have the previous approvals noted at 8.02, above).

10.0 Local Impacts

10.01 No physical alterations to site are being proposed and the layout and the number of caravans will remain the same. All that is proposed is to extend the operational period of this holiday site from 8 months to 10 months in any one calendar year to reflect the occupancy extensions that have been allowed to other holiday caravan parks on the island.

- 10.02 Though the Parish Council have raised an objection to this proposal it would appear to constitute an objection in principle with no tangible reason given for this other than it would set a precedent, and reiteration of a previous view that the site is inadequate for all year round occupation.
- 10.03 The principle of the use was established by the appeal decision in 1985 which allowed the use of the site for up to 50 holiday caravans. In this respect, no change is proposed and the use, as such, remains authorised. Permitting this holiday caravan park to remain open for a period of 10 months a year would not set a precedent as this is now become a standard period approved by this Authority on a number of caravan sites on the Island. To match this, the applicant is requesting consent to remain open for 10 months a year and not all year as maintained by the Parish Council.
- 10.04 Use of the site as a holiday park for an additional two months in every year would not on balance generate any adverse impact upon the locality or the wider island or materially intensify the use of the site for the additional two months it would remain open. The two month non-operational period under the current proposal would retain the rural unspoiled character of the local countryside during the winter months, provide a break for local full time residents thereby assist in maintaining their residential amenity. Conditions can be put in place requiring the caravans only to be used as holiday accommodation for the 10 month period to ensure that they do not become permanent residential dwellings. As such, the impact upon the local area during the additional month should, therefore be minimal.
- 10.05 Suitably conditioned to restrict occupation to holiday use, the proposal would reflect current holiday occupancy periods extant on the island and comply with guidance contained within paragraph 28 of the NPPF in respect of supporting sustainable growth in rural areas; the Council's new corporate policy for holiday homes; PoliciesDM3 (Rural Economy), DM4 (New Holiday Parks and Extensions) and DM5 (Occupancy of Holiday Parks) of the emerging Swale Borough Local Plan, Part 1, 'Bearing Fruits 2031'.

11.0 Rights of Way

11.01 The comments of the Swale Footpaths Group appear to take the form of an informative advising that the public right of way located to the north of the site should remain unobstructed.

12.0 CONCLUSION

12.01 This application pertains solely in respect of the variation of condition 2 of the planning permission allowed on appeal by the Inspectors decision dated 21st March 1985 in respect of the extension of the occupancy period of the holiday caravan park by 20 caravans to total 50 caravans and does not pertain to any other development.

- 12.02 The proposal to support applications seeking to extend holiday park occupancy from 8 to 10 months was agreed by the Local Development Framework and supersedes Policy B7 of the Local Plan adopted 2006, clearly establishing the principle of such proposals.
- 12.03 Use of the site as a holiday park for an additional two months in every year would not intensify the use of the site and the rural unspoiled character of the local countryside during the winter months would be retained and the residential amenity of full time residents maintained.
- 12.04 Taking the above into account I recommend that planning permission should be granted.

13.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
 - <u>Reasons</u>: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
- (2) No chalets or caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no chalets or caravans shall be occupied unless there is a signed agreement between the owners or operators of the Park and all chalet or caravan owners within the application site, stating that:
 - (a) The chalets or caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
 - (b) No chalet or caravan shall be used as a postal address; and
 - (c) No chalet or caravan shall be used as an address for registering, claiming or receipt of any state benefit; and
 - (d) No chalet or caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
 - (e) If any chalet or caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

- <u>Reasons</u>: In order to prevent the chalets or caravan from being used as a permanent place of residence.
- (3) Any chalet or caravan that is not the subject of a signed agreement pursuant to condition 2 shall not be occupied at any time.
 - <u>Reasons</u>: In order to prevent the chalets or caravan from being used as a permanent place of residence.
- (4) The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.
 - <u>Reasons</u>: In order to prevent the caravans from being used as a permanent place of residence.

<u>SCHEDULE</u>

The Park operator must:

- 1. Ensure that all chalet or caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
- 2. Hold copies of documented evidence of the chalet or caravan users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
- 3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
- 4. Require chalet or caravan users to provide new documentation if they change their main residence; and
- 5. Send all written communications to the main residence of the chalet or caravan user; and
- 6. Not allow postal deliveries to the caravan or accept post on behalf of the chalet or caravan users at the park office; and
- 7. Ensure that each chalet or caravan is to be used for holiday use only and that no chalet or caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
- 8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

Department of the Environment and Department of Transport



Common Services

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GTN 2074

Messrs Charles F Jones & Son 76 Eridge Road Hampton Court EAST MOLESEY Surrey KTS 9HD

Your reference GB/W.82.1.P/DF Our reference T/APP/V2255/A/84/018360/P2 T/APP/V2255/A/84/024617/P2

21 MAR 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9 APPEALS BY MR LARMAN AND MRS A WARD APPLICATION NOS: SW/83/476 AND SW/84/970 (Come 2209)

- As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against the decisions of the Swale Borough Council, to refuse planning permission for an extension to a caravan park for 20 caravans at Horseshoe Caravan Park, Bell Farm Lane, Minster, Sheppey. I held a local inquiry into the appeals on 5 February 1985.
- The application by Mr Larman, under references SW/83/476, was refused planningpermission on 24 January 1984. Subsequently the Horseshoe Caravan Park, including the appeal site, was purchased by Mrs Ward. On 15 Tebruary 1984 an Established Use Certificate in respect of the appeal land was granted by the Borough Council in the following terms:-

It is hereby certified that the use of the above land for the stationing of holiday caravens was on 15 February 1984 established within the meaning of paragraph (a) of Section 94(1) of the Town and Country Planning Act 1971.

In view of the changed circumstances represented by the Established Use Certificate, Mrs Ward made a further planning application, under reference SW/84/970, which was refused by the council on 9 November 1984. Mr Larman's application was identical in substance to that made by Mrs Ward. Mr Larman therefore saw no reason to proceed with his appeal which was withdrawn on his behalf at the opening of the inquiry and I-therefore intend to take no further action on it.

- I have inspected the site and the surrounding area and have considered all the evidence given at the inquiry and in the written representations. As a result I have come to the conclusion that the principal issues which I have to determine are firstly, whether or not the proposal would normally be acceptable in the light of local and national planning policies and secondly, if not, whether there are special circumstances in this case which would justify a grant of planning permission.
- Horseshoe Caravan Park is situated approximately one mile east of the village of Minster and about 100 m inland from the north coast of the Isle of Sheppey. The caravan park, excluding the appeal site, extends to some 0.6 ha and has the benefit of planning permission and a site licence for use as a caravan site. It is developed as a static holiday caravan park which includes ancillary buildings and a house occupied by the appellant. There are about 50 caravans on the land, all of which are fully serviced and most of which are owned by individuals who pay a ground

rent to Mrs Ward. The appeal site is a roughly rectangular tract of land, about 0.41 ha in area, which extends southwards from the western end of the existing caravan park. It falls quite steeply from east to west and is separated on the east and south sides, by hedgerow of varying height and density, from open agricultural land which rises eastwards towards Bell Parm Lane. Along the west side of the site there is a brook and a well-grown copse, beyond which there is a cottage known as Kozy Nuke and what appears to be an indoor riding school standing in pastureland. At the time of my site visit there was some evidence of tipping in the form of clay and rubble on the land. There was one static caravan and 3 concrete caravan bases on the site. Some planting of very young conifers had been carried out to reinforce the hedge on the east boundary.

- 5. The appellant maintained that the proposal would not harm local amenity and would conform to planning policy. Attention was drawn to the lack of complaints over the period of 20 years during which the site had been in use for the proposed purpose and the absence of any third party objectors at the inquiry. No enforcement action had been deemed necessary by the council. Planning permission would enable a site licence to be issued, which would ensure proper control of the caravan park, to the benefit of the local community. If this appeal was not allowed the site might well be put to unregulated uses which would be less desirable than the appellants' scheme.
- Policy TR2 of the Structure Plan did not totally preclude the proposal and a previous Inspector in allowing an appeal (T/APP/5282/A/81/09849/G5) and granting planning permission for the change of use to a static holiday park of land at the rear of Hazledene, Fourth Avenue, Eastchurch, Sheppey, had recognised that each site must be considered on its merits. Caravan standings had been lost by cliff erosion of Lazy Days and Song of the Sea caravan parks in the vicinity of Horseshoe Caravan Park and it would be within the spirit of Policy SF of the Draft Local Plan to make up these losses on the appeal site. It was argued that Structure Plan Policy RS4 was intended to restrict development in hamlets and rural settlements and therefore was not applicable to the appeal site which was in an established holiday area. The proposal would not breach Policies CC1 and CC2 of the Structure Plan because the site was made up land and unsuitable for agriculture. The appellant contended that the site was not representative of the Kent countryside, had no historical interest, was not free of urban intrusion, and by virtue of the lie of the land and surrounding development would not detract from the scenic quality of the coastline. In these circumstances the proposal would not be at odds with Structure Plan Policies CC6 and CC11. Not all existing caravan sites in the neighbourhood were within the area allocated for such uses on the Town Map.
- 7. The local planning authority outlined the planning history of Horseshoe Caravan Park and the appeal site and rehearsed paragraphs 7, 8, 9 and 10 of Development Control Policy Note 8. They relied upon the policies of the approved Kent Structure Plan set out in the grounds of refusal and explained that the site was outside the area allocated on the Queensborough, Sheerness and Vicinity Town Map for holiday camp use. Policy 8F of the Draft Sheerness, Queensborough and Minster Local Plan (published for public consultation in August 1984), referred to in ground of refusal vi. stated:

New static caravan or chalet sites or extensions to existing sites will not normally be permitted outside the urban areas. Exceptionally, where land is lost through cliff erosion, permission may be granted for small areas of land in replacement provided that they adjoin the site concerned and are not subject to any overriding planning objection, including the impact on the landscape or on residential property.

The council also mentioned other provisions of the Draft Local Plan relevant to static caravan and chalet sites. They submitted that the Structure Plan policies designed to control further caravans sites in areas where saturation point had been reached, to prevent unjustified sporadic development in rural areas, to prevent unnecessary encroachment on productive or potentially productive agricultural land and to prevent development likely to intrude upon landscape areas, features of interest or the undeveloped coastline, were all relevant and afforded clear-cut objections to the proposal. The council conceded that the site was not prominent but it was nevertheless visible from the surrounding, generally unspoilt, country-side and the proposed use would be intrusive by virtue of appearance, noise and disturbance upon the amenity of Kozy Nuke. If permitted the development would appear as an arbitrary extension of the caravan park, beyond its natural boundaries, into the open countryside.

- 8. I accept that Mrs Ward's scheme would not be particularly obtrusive in its impact upon the environs of the site and I agree that the land offers little agricultural potential. However, in the light of the Structure Plan policies, the provisions of the Town Map and the Draft Local Plan, I am in no doubt that the site lies outside any area within which the stationing of caravans would normally be acceptable. The site does not adjoin the caravan parks in the vicinity which have lost standings by erosion and I do not therefore consider that the development would constitute an exception as provided for by Policy 8F of the Draft Local Plan. I have studied the planning permission granted on appeal under reference T/APP/A/81/09849/G5, but I do not consider that the circumstances of that case nor any of the other planning matters raised by the appellant are sufficient to show that the development would normally be acceptable. Which brings me to the second principal issue which I have identified in this case.
- 9. The council said that the existence of an established use of the site for the stationing of caravans gave no entitlement to such use, which could only be gained by the granting of a site licence. A site licence could only be issued if the land had benefit of planning permission. The council quoted paragraphs 1(1) and 3(3) of the Caravan Sites and Control of Development Act 1960. There was no action which the council could reasonably take as Planning Authority to secure the cessation of the use of the site but it was open to them as the Environmental Health Authority to act in the absence of a site licence. The service of a discontinuance order was unnecessary and inappropriate because the absence of a site licence already meant that the site should have been vacated and the council had adequate powers to enforce against the continued use of the land. Even if it was agreed that the existence of the use was a proper planning consideration, the proposal would represent an undesirable intensification of that use from about 7 caravans, claimed by supporters of the application for the Established Dse Certificate, to 20 caravans on the site.
 - 10. The appellant contended that the Borough Council were attempting to use their powers to prevent the implementation of existing use rights in a manner which was wrong in law and contrary to natural justice. On the first count the appellant referred to (1965) I All England Law Reports, page 490, the House of Lords Decision in the case of Minister of Housing and Local Government v Hartnell. In perticular the appellant cited the opinion of Lord Wilberforce (page 505) who quoted the statement of Lord Warrington of Clyffe in Colonial Sugar Refining Co Ltd v Melbourne Harbour Trust Conrs, that "a statute should not be held to take away rights of property without compensation unless the intention to do so is expressed in clear and unambiguous terms". Lord wilberforce said that, in the case before him, there was a procedure by which use of a site could be discontinued, or allowed subject to condition, which procedure involved payment of compensation, and it would be unreasonable and was ultra vires to seek to achieve the same objection by the imposition of a condition outside that procedure.

- 11. It was not open to the planning authority to enforce against the established use and it was evident from Broxbourne Borough Council v Secretary of State for the Environment (1980) Q.B.1; (1978) 38F & CR381 that the appellant was entitled to use the land to the full extent of the certificate. The certificate made no reference to the number of caravans stationed on the site and it was submitted that it was not open to the council to interpret the evidence which supported the application for the certificate of established use. The appellant accepted that the certificate did not constitute a planning permission, but said that the importance of the existence of an established use was recognised by the Secretary of State in his decision letter under reference APP/5392/C/75/2684 in which he found that "... in view of the immunity from enforcement action conferred by the established use, it is thought that the planning objections, which are strongly endorsed, are outweighed by the need for a formal planning permission to enable a site licence to be obtained ... ". In his decision under reference APP/2145/A/57098 dated 14 May 1963, the Minister of Housing and Local Government recognised the principle that termination of existing uses should carry a right to compensation and concluded that "... solely in equity and contrary to his view on the planning merits, permission should be granted for the caravans, leaving the planning authority to make a discontinuance order if they wish".
- 12. The council maintained that the circumstances of the cases cited by the appellant were not the same as those of the proposal before the inquiry. However, I recognise in these precedents a clear principle, which leads me to conclude that it would be inequitable to deny the appellant the benefit which the established use certificate bestows, by refusing planning permission for development in accordance with the established use and consequently making it impossible for her to obtain a site licence. I believe that this consideration outweighs the planning objections to the proposal and in the rare and exceptional circumstances of this case I see no reason why the development, if permitted, should make it difficult for the local planning authority to resist other extensions to caravan parks which lack the special justification of Errs Ward's scheme.
- 13. Your client is prepared to submit to conditions restricting the use of the site to 20 static holiday caravans, restricting the period of occupancy and requiring landscaping of the site. The council propose a condition limiting the number of caravans on the site to seven. The established use certificate refers to holiday caravans and I consider that I should and may impose a condition restricting the period of occupancy of the caravans; but it would be wrong for me to limit the established use of the site by means of planning conditions and I consider that all other matters should be for the consideration of the council as licensing authority.
- 14. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for an extension to a caravan park for 20 caravans at Horseshoe Caravan Park, Bell Parm Lane, Minster, Sheppey in accordance with the terms of the application No SW/84/970 dated 3 August 1984 and the plans submitted therewith, subject to the following conditions:
 - the development hereby permitted shall be begun not later than 5 years
 from the date of this letter;
 - no caravan on the site shall be occupied between 1 November in any one year and 29 February in the succeeding year.

- 15. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.
- 16. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.
- 17. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen Your obedient Servant

KICHAEL P FARSONS Diplarch (UCL) RIBA Inspector

ENC

Ref No: T/APP/V2255/A/84/018360/P2 T/APP/V2255/A/84/024617/P2

APPEARANCES

FOR THE APPELLANTS

Mr J Furber

 of counsel, instructed by Messrs Whetstone & Frost,
 8 Bishop Street, Town Hall Square,
 Leicester, LEI 6AP.

He called:

Mr G R Beach BSc

- Planning Consultant.

FOR THE PLANNING AUTHORITY

Mr W Aldworth

- Solicitor, Swale Borough Council.

He called:

Mr C P Lewcock BA

 Area Planning Officer, Swale Borough Council.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

. Document 2 - Notice of the inquiry.

Document 3 - Withdrawal of appeal T/AFP/V2255/A/84/018360/P2.

Document 4 - Copies of planning decisions refs: NK/8/53/53, NK/8/53/53A, NK/8/60/92, NK/4/73/523, NK/4/73/608, JW/76/458, JW/79/530.

Document 5 - Copy of established use certificate SW/83/677 and declarations.

Document 6 - Letter dated 21 January 1985 on behalf of Mr G Sonn to the Inspector.

Document 7 - Extract from the Encyclopsedia of Planning - Caravan Sites.

Document 8 - Extract from the (1965) All England Law Report.

Document 9 - A copy of the planning application dated 25 March 1983, but received by the local planning authority on 9 May 1983, submitted by Mr P J Houghton on behalf of Mr Larman.

Document 10 - A copy of the refusal notice dated 24 January 1984 in respect of Mr Larman's application.

Document 11 - A copy of the Established Use Certificate dated 15 February 1984 covering the appeal site.

Document 12 - Letter from Swale Borough Council dated 20 June 1984.



2.12 REFERENCE NO - 15/506114/FULL

APPLICATION PROPOSAL

New 4 bedroom dwelling with integrated garage.

ADDRESS Land Adjacent to 27 Waverley Avenue, Minster-on-sea, Kent, ME12 2JL

RECOMMENDATION – Grant with conditions

SUMMARY OF REASONS FOR RECOMMENDATION

The proposed development is acceptable as a matter of principle, would not give rise to harm to residential amenity, visual amenity or highway safety or convenience.

REASON FOR REFERRAL TO COMMITTEE

Called in by Ward Member

WARD Minster Cliffs	PARISH/TOWN Minster On Sea	COUNCIL	APPLICANT Mrs S Bagri AGENT DHA Planning
DECISION DUE DATE	PUBLICITY EXPI	RY DATE	
24/09/15	24/09/15		

RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):

App No	Proposal	Decision	Date
SW/11/1616	Proposed 4 bedroom dwelling with	Grant of	20/2/2012
	integrated garage.	condition	
		al PP	

This permission, granted in 2011 was for an identical dwelling to that currently proposed.

SW/06/0413	Outline	application	for	erection	of	two	Grant	of	26/5/2006
	storey detached dwelling house.					outline			
							PP		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site amounts to a vacant plot of land adjacent to the north of no. 27 Waverley Avenue, Minster-on-Sea, Kent. The application site is characterised by a steep gradient and is situated within Flood Risk Zone 2. It has an area of approximately 270m² (30m in length and 9m in width) and has no buildings within it.
- 1.02 The application site is located within the built-up area of Minster-on-Sea and is surrounded by residential units. The majority of these are two-storey dwelling houses of traditional design. The site to the north contains a dwelling

with a swimming pool in its back garden. The site to the west has its back garden bounding the application site. It contains several trees which provide some screening. To the south, the site is bound by 27 Waverley Avenue, which contains a single dwelling.

2.0 PROPOSAL

- 2.01 This application effectively seeks the renewal of a permission granted under SW/11/1616. The application does not seek any amendments to the previously approved scheme.
- 2.02 The application proposes the erection of a two-storey dwelling house. The proposed dwelling with an internal single garage. The pedestrian and car accesses would be provided from Waverley Avenue. The building would be located 6.3m from the site frontage, and approximately 1 metre from the southern and northern boundaries of the site.
- 2.03 The proposed dwelling would be 8m high to the ridge of the roof and 4.8m at eaves level, from the lowest point of the site, to the east. The rear and front wall of the proposed dwelling would follow the building line of the neighbouring building to the south, at no. 27 Waverley Avenue. Both side elevations of the proposed dwelling would have windows, either secondary windows or serving non-habitable rooms.
- 2.04 The frontage would comprise a small garden with a hardstanding area. A rear garden with a decking/patio area are also proposed. The access to the rear garden would be via the stairs from the decking/patio.
- 2.05 Previously, similar applications have been submitted to the Council on this site, granted permission in 2006 and 2012. As the 2012 planning permission expired this year, a new planning application was submitted by the applicant. I note that the drawings of this proposal have been previously submitted to the Council, as part of application ref: SW/11/1616, approved in 2012. Out of the documents submitted with the current planning application, only the Planning, Design and Access Statement and the Flood Assessment have been altered, to ensure compliance with the policies of Swale Borough Local Plan 2008, the NPPF and NPPG.

3.0 PLANNING CONSTRAINTS

Environment Agency Flood Zone 2.

4.0 POLICY AND OTHER CONSIDERATIONS

Swale Borough Local Plan 2008:

- Policy SP1 (Sustainable Development);
- Policy E1 (General Development Criteria);
- Policy E19 (Achieving High Quality Design and Distinctiveness);
- Policy H2 (Providing for New Housing);
- Policy T3 (Vehicle Parking for new development).

5.0 LOCAL REPRESENTATIONS

- 5.01 Minster-on-sea Parish Council supports the proposal.
- 5.02 Five residential objections have been received. The issues raised include:
 - Inadequate scale (massing and height) of the proposed building;
 - Overshadowing and overlooking issues to surrounding buildings;
 - Possible damage to neighbouring buildings during construction (however this is not a material consideration);
 - Noise nuisance during construction;
 - Inadequate parking space on the road;
 - Biodiversity loss.

No other representations have been received.

6.0 CONSULTATIONS

- 6.01 The Environment Agency has no objections to the proposal.
- 6.02 Southern Water have commented that a formal application for a connection to the public foul and surface water sewer should be made by the applicant or developer, should the application be approved. They request that an informative to this effect be included with the planning permission. This has been included below. Additionally, an informative has also been included on Sustainable Urban Drainage Systems (SUDS), in accordance with Southern Water's comments on the adequacy of soakways to dispose of surface water from the proposed development.

7.0 BACKGROUND PAPERS AND PLANS

- Planning, Design and Access Statement
- Flood Risk Assessment
- Plans submitted with application ref 15/506114/FULL.

8.0 APPRAISAL

8.01 The proposed development is located within built up area Minster-on-sea, where the principle of new residential development is acceptable. As such, the main considerations in determining this application are related to the impact of the proposal on residential and visual amenities as well as its impact on highway safety. These are discussed in turn below.

Visual Impact

8.02 The application proposes a two-storey dwelling house of a scale and design similar to those of neighbouring buildings. The height of the building, as well as the proposed separation between it and surrounding buildings, is in keeping with neighbouring properties. In general, I consider that the proposed development is adequate for the site, as it responds positively by reflecting

the characteristics and features of the locality. As such, I consider that the proposed dwelling house would not harm visual amenity and the street scene and would therefore be in compliance with Policies E1 and E19 of the Swale Borough Local Plan.

Residential Amenity

- 8.03 The proposed dwelling would not project beyond the rear of no.27 Waverley Avenue and would not have an impact in this regard. Equally, it would be located in excess of 21 metres from the dwellings to the rear. No harm in this regard is likely.
- 8.04 The proposed building would project 4 metres to the rear of no.29 Waverley Avenue. However the properties are sited approximately 2.4 metres apart, which would in my view reduce the level of impact to an unobjectionable level.
- 8.05 The proposed decking could potentially give rise to overlooking to both nos.27 and 29 Waverley Avenue. However Members will note condition (6) below, which requires obscuring panels to be constructed to each end of the decking prior to the occupation of the dwelling. This will prevent overlooking, and would not in my opinion give rise to harm to residential amenity by virtue of overshadowing.
- 8.05 Given the above, I am of the view that the proposed dwelling would not give rise to demonstrable harm to the occupiers of adjacent dwellings with respect to overlooking and overshadowing.
- 8.06 With respect to the potential noise nuisance and dust during construction, I consider that they would be mitigated by the conditions specified below.

Highways

8.07 The neighbours have expressed concerns regarding potential impact on spaces for on-street parking. I do not consider that the proposal would significantly affect on-street parking space. The application proposes an internal garage, together with 2 off street parking spaces to the front. This space is sufficient for a dwelling of this size, and I do not consider the proposal objectionable in this regard.

Other Matters

Flood risk

8.08 The Flood Risk Assessment confirms that the development is located in Flood Zone 2, which is defined as having a medium risk of flooding from rivers and sea. The flood risk assessment also demonstrates that there is a low risk of flooding due to other sources. It is notable that the Environment Agency do not raise objection.

- 8.09 The application states that a sustainable drainage system will be incorporated to accommodate the 1 in 100 year rainfall event with a 30% allowance for climate change. There has been no change to the flood risk at the site since the last application. A condition has been included below requiring the applicant to submit details of the proposed drainage system to the Local Planning Authority.
- 8.10 Southern Water has expressed some concerns regarding the drainage and foul system of the proposed development. More information on this is included in the Informative section below.

Loss of Biodiversity

8.11 With respect to the neighbours' concerns regarding the potential environmental impacts of the proposed dwelling, it is considered that the currently vacant land does not have a significant biodiversity value that could potentially restrict the erection of a new dwelling on site.

9.0 CONCLUSION

- 9.01 The proposed development is acceptable as a matter of principle, would not give rise to harm to residential amenity, visual amenity or highway safety or convenience. The scheme is acceptable in all other regards, as considered above.
- 9.02 On this basis and subject to the conditions below, it is considered that the scheme would be acceptable and it is recommended that planning permission be granted.
- **10.0 RECOMMENDATION** GRANT Subject to the following conditions:

CONDITIONS to include are as follows:

- (1) The development to which this permission relates to must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
 - <u>Reasons</u>: 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 strictly in accordance with the approved drawings and statements as follows: drawings 11/1201 and 11/1203; Planning, Design and Access Statement and Flood Risk Assessment.
 - <u>Reasons</u>: For the avoidance of doubt and in the interests of proper planning.
- (3) No development shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates

sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development as approved.

<u>Reasons</u>: In the interest of promoting energy efficiency and sustainable development and as no such details have been submitted.

(5) Prior to the commencement of development, details of the external finishing materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

<u>Reasons</u>: In the interest of visual amenity and as no such details have been submitted.

(6) Notwithstanding the submitted plans, no development shall take place until details of 1.8 metre high obscuring panels to be fitted to the flanks of the decking and patio area have been submitted to and approved in writing by the Local Planning Authority. The panels shall be constructed prior to the occupation of the dwelling hereby approved, and shall be retained in perpetuity thereafter.

<u>Reasons</u>: In the interests of residential amenity and as no such details have been submitted.

(8) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity,), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and as no such details have been submitted.

(9) All hard and soft 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.

<u>Reasons</u>: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

(10) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of

such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

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

(11) The area shown on the submitted layout as vehicle parking space or garages shall be provided, surfaced and drained before the dwelling is occupied, and shall be retained for the use of the occupiers of, and visitors to, the dwelling, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

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

(12) Pedestrian visibility splays 1m x 1m with no obstruction over 0.6m above the access footway level shall be provided prior to the commencement of any other development in this application and shall be subsequently maintained.

<u>Reasons</u>: In the interests of highway safety.

(13) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reasons: In the interests of residential amenity.

(15) Construction of the development shall not commence until details of the proposed means of foul and surface water sewage disposal have been submitted to, and approved in writing by, the Local Planning Authority.

Reasons: In order to prevent pollution of water supplies.

The Council's approach to this application:

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

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

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

In this instance:

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

Habitats Regulations Assessment

This HRA has been undertaken without information provided by the applicant. The application site is located north of The Swale Special Protection Area (SPA) and Ramsar site and east of Medway Estuary and Marshes Special Protection Area and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations).

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

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwellings are occupied.

In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation birds by cats.
- Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal

agreement may cost more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.

Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on minor developments will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Borough Council intends to adopt a formal policy of seeking developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.

Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

INFORMATIVES

Southern Water

Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer.

The Council's building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

The applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these

systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme;
- Specify a timetable for implementation;
- Provide a management and maintenance plan for the lifetime of the development.
- This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

No surface water should be permitted to be discharged to the foul sewerage system, in order to protect properties downstream from flooding.

Should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water."

A formal application for connection to the public sewage system is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

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

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

PLANNING COMMITTEE - 17 December 2015

PART 5

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information

Item 5.1 – 61 Cormorant Road, Iwade

APPEAL DISMISSED

Observations

APPEAL AGAINST NON-DETERMINATION

A welcome decision.

• Item 5.2 – 141 Ufton Lane, Sittingbourne

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

Full support for the Council's decision.

• Item 5.3 - Lamberhurst Farm, Dargate Road, Yorkletts

APPEAL DISMISSED

Observations

DELEGATED REFUSAL:

The Inspector disagreed with the second reason for refusal (noise and disturbance, as suggested by Environmental Services), but dismissed the appeal as he agreed that the building would be very prominent and of a very poor design, thereby supporting the Council's position. A good decision.





Appeal Decision

Site visit made on 13 October 2015

by David Cliff BA Hons, MSc (Urban Planning) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 November 2015

Appeal Ref: APP/V2255/W/15/3019427 61 Cormorant Road, Iwade, Sittingbourne ME9 8WP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Christophe Evo against Swale Borough Council
- The application Ref 14/503841, is dated 4 September 2014.
- The development proposed is a single storey rear extension.

Decision

The appeal is dismissed.

Procedural Matters

- Following the submission of the application, the description was altered by the Council in agreement with the appellant to add reference to the 'conversion of garage into utility room and storage area'. I note that the submitted plans include the partial conversion of the existing garage in addition to the rear extension and I have therefore considered the appeal on this basis.
- Neither of the main parties has made reference to any development plan policies. In the absence of such policies, I have considered the proposals against the National Planning Policy Framework.

Main Issues

- 4. The Council has not provided a statement on the merits of the proposal. From my consideration of the evidence before me, including a representation from a neighbouring resident, I consider the main issues to be the effect of the proposed development upon:
 - The living conditions of the occupiers of 1 Cormorant Road with particular regard to outlook,
 - ii) the character and appearance of the area, and
 - local parking provision and highway safety.

Reasons

Living conditions

The proposed rear extension would be sited immediately adjacent to the flank boundary with the neighbouring property at 1 Cormorant Road. This

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- neighbouring property has a set of bay windows, which I understand serve a kitchen/diner, located in close proximity to this boundary and it has a small triangular shaped rear garden.
- 6. The side wall of the existing garage of the appeal property already projects by approximately 1.5m outwards along the boundary from the rear elevation of 1 Cormorant Road. In addition to the existing projecting garage the new extension would result in built development running alongside the vast majority of this boundary. Whilst its sloping roof would rise away from next door, the flank wall of the proposed extension would rise noticeably above the existing boundary fence. In the context described above, I consider that the height and depth of the side elevation of the proposed extension would result in an oppressive and overbearing impact when viewed from the rear windows and rear garden area of the adjacent property.
- 7. I therefore consider that the proposed development would have a harmful impact on the living conditions of the occupiers of 1 Cormorant Road. It would be contrary to one of the core planning principles of the Framework (paragraph 17) which seeks to secure a good standard of amenity for all existing occupants of buildings.
- 8. The appellant has argued that the depth and height of the proposed development is within the tolerances of what could be built as permitted development. I have no detailed evidence before me of how a scheme would lawfully comply with the permitted development regulations and, in any case, the prior approval process would appear to be applicable for an extension of the depth proposed. I therefore give very limited weight to the prospect of a fallback position.

Character and appearance

While the proposed extension would look different to the house, its design in my view would be of a high standard and its back garden position means that it would not be particularly prominent in public views. Thus it would meet the design aims of the Framework.

Local parking provision and highway safety

- 10. The partial conversion of the existing attached single garage would not leave sufficient space remaining within it to be used for the parking of vehicles. There is, however, space for one car to be comfortably parked on the existing driveway which would be unaffected by the proposal. The appellant considers it possible for two cars to be parked on the driveway, although in my mind this would be a very tight arrangement and unlikely to be achievable without a vehicle protruding beyond the edge of the drive and onto the shared highway.
- 11. In my experience householders do not always park their vehicles in residential garages despite them being designed, and in some instances restricted by planning condition, for this purpose. On my site visit I saw several examples of cars parked on the highway within this housing estate. I also saw that the appeal site is located near to the end of a cul-de-sac meaning that the traffic is likely to be infrequent and speeds low. Whilst a four bedroom household might own more than one vehicle, I consider that in this instance there is sufficient space for a car to be parked on the adjacent highway if required, without any

significant harm arising in terms of highway safety or the local parking provision in the vicinity of the site.

 I therefore find there to be no conflict with the transport and highway safety aims of the Framework.

Other Matters

- 13. I note the appellant's reasons for requiring the proposed development, including providing for a home office and a better quality of life for his family. However, whilst I have no doubt that the scheme would deliver such benefits, these are outweighed by the harm I have found would result upon neighbouring living conditions.
- 14. The appellant has expressed concern about the manner in which the application was dealt with by the Council. However, they are procedural matters which if necessary should be raised with the Council away from this appeal. They have had no bearing on the main planning merits of the proposed development.

Conclusion

- 15. In conclusion, I find that no harm would result from the proposed development with regard to its effect on the character and appearance of the area or on local parking provision and highway safety. However, I find that the proposed rear extension would result in harm to the living conditions of the occupiers of 1 Cormorant Road. That harm is the prevailing consideration and leads me to conclude that the proposed development would not amount to sustainable development as defined by the Framework.
- Therefore, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR





Appeal Decision

Site visit made on 17 November 2015

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 November 2015

Appeal Ref: APP/V2255/W/15/3010736 141 Ufton Lane, Sittingbourne, Kent ME10 1HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs June Carrington against the decision of Swale Borough Council.
- The application Ref 14/503659/FULL, dated 29 August 2014, was refused by notice dated 9 January 2015.
- The development proposed is the erection of a new dwelling.

Decision

The appeal is dismissed.

Main Issue

The main issue is the effect of the development on the character and appearance of the area.

Reasons

- 3. The character of this plot and the neighbouring plots along this section of Ufton Lane is of relatively large, close-set, detached houses set on narrow but long plots, with back gardens generally well planted with trees and shrubs and containing sheds and out buildings. Behind the plots is a large compound of lock-up garages the access to which is shared by many of the houses in Ufton Lane, as they have developed garages which are accessed from this compound.
- 4. The proposed backland development would be at odds with the distinctive pattern of development in this part of Ufton Lane, in particular the back gardens of the houses which appear to be well used for leisure, relaxing and gardening. In this context, the proposal would introduce an uncharacteristic form of development.
- 5. There is a difference in character between the use of the characteristic garden buildings such as sheds, outhouses and garages in the surrounding plots, and the use of the proposed building as an independent dwelling. The use of the proposed building and garden would intensify the activity in the back gardens which are characterised by their spacious and tranquil nature, and the plot subdivision would detract from the character of long back gardens enclosed at the rear by domestic garden structures, rather than housing.
- I note that the proposal would replace an existing double garage, and that it has been imaginatively designed to reduce the effects identified above,

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including fronting the compound, having direct access, incorporating the first floor into the roof and having a form and detailing sensitive to the vernacular of the rear garages in the surroundings while providing visual interest and design quality in the building. While these factors weigh in favour of the proposal, they do not mitigate the effects of subdivision identified above.

- 7. I find that the proposal would run against the distinctive urban grain and landscape character of its surroundings, and this would be harmful to the character and appearance of the area, contrary to policies E1 and E19 of the Swale Borough Local Plan 2008 which seek, amongst other things, proposals that are well sited, that reinforce local distinctiveness, strengthen the sense of place, and which respond positively by reflecting the positive characteristics of the locality.
- 8. It would also conflict with advice in the National Planning Policy Framework 2012 which suggests that development should respond to local character¹ as well as the guidance in the Planning Practice Guidance² which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.

Other Matters

- 9. The appellant states that the Council has not demonstrated a five-year supply of deliverable housing sites, which anticipates a significant boost to housing land supply. In this context the provision of a further dwelling does, modestly weigh in favour of the proposal. However, the site is within the identified settlement boundary, and the development plan policies referred to by the Council relate to the quality of development rather than strictly to the supply of housing. In any event, the proposal does not adequately address the environmental role of sustainable development set out in paragraph 7 of the Framework, and does not therefore constitute sustainable development.
- 10. I have had regard to other matters raised including loss of privacy, noise and disturbance, parking, highway safety and bats. However, as I am dismissing the appeal on the main issue for the reasons given above, I have not pursued these matters further.

Conclusion

11. Whilst the development would provide a modest benefit of one additional house to local housing supply, this is outweighed by the unacceptable harm it would cause to the character and appearance of the area, which is in clear conflict with the policies of the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

¹ National Planning Policy Framework 2012, paragraph 58

² Planning Practice Guidance, DCLG 2014 as amended, paragraph 007, ID 26-007-20140306



Appeal Decision

Hearing held on 17 November 2015 Site visit made on 17 November 2015

by Kenneth Stone Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 December 2015

Appeal Ref: APP/V2255/W/15/3130656 Lamberhurst Farm, Dargate Road, Yorkletts, Kent ME13 9EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Smith against the decision of Swale Borough Council.
- The application Ref 15/501135/FULL, dated 6 February 2015, was refused by notice dated 18 May 2015.
- The development proposed is described as 'proposed industrial building'.

Decision

The appeal is dismissed.

Procedural matters

2. The day before the hearing I was notified that a site survey had been undertaken and there was a discrepancy between the plan submitted with the application and the survey plan. At the hearing the appellant produced a site plan that illustrated the proposed industrial building re-sited some 10m further off the north west boundary of the site, that with the White House. This amended plan has not been the subject of consultation and parties who may wish to comment on it have not had the opportunity to do so. This would include the Parish Council and the Woodland Trust who were not at the hearing. The Council and occupant of the White House, who were at the hearing, only had a limited opportunity to consider the implications of the amendment. In these circumstances and taking account of the 'Wheatcroft principles' this could lead to prejudice for those parties and I have therefore not taken into account the amended plan, but determined the appeal on the basis of the original plans as considered by the Council.

Main Issues

- 3. The main issues are the effect of the proposed development on:
 - · The character and appearance of the surrounding area; and
 - The living conditions of the occupants of the White House, with particular reference to noise and disturbance.

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Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]:

Reasons

- 4. The appeal site is part of a larger area of land that benefits from an Established Use Certificate for the 'storage and repair of heavy plant and vehicles'. According to the Council this allows for open storage on the site and which is a relatively low key business with no buildings or permanent features on the site. The appellant notes that the intensity of use has varied over the years and he has previously operated up to 30 trucks from the site but presently there are some 10 trucks operating from the site. At the time of my visit there were a number of storage containers arranged along the north western boundary, various vehicles and caravans and some general storage. I was informed that until recently a scaffolding firm had operated from the site but this had recently vacated.
- 5. The site was generally hard surfaced and enclosed by metal mesh fencing. Land levels in the immediate vicinity of the site varied with the site being approximately 1m higher than the adjacent access road. Victory Wood, a woodland trust site was on elevated land to the north and which contains a public view point that overlooks the site and beyond to the lower lying and open farmland to the south. Although named 'Victory Wood' it is a relatively open hillside with little tree coverage. It was separated from the site by an open mown field which I was informed was currently used as a private air field. To the north west is the White house, a large detached house in substantial grounds and to the south east is an MOT and vehicle repair unit that is within the wider area covered by the Established Use Certificate.
- The access road also provides the only access to the original Lamberhurst farm buildings which have been converted into a small industrial estate and which contains some 39 units, the permission allowing for a range of uses including B1, B2 and B8.

Character and appearance

- 7. The appeal site is set within a landscape on rising ground with the area to the rear containing Victory Wood and in which there is a public view point. The land to the south falls away to the lower level and flatter farmland beyond. The Council's supplementary planning document the 'Swale Landscape Character and Biodiversity Appraisal 2011' characterises the landscape within which the appeal site is located as 'Waterman Clay Farmlands' landscape type. This is described as containing a low lying central area divided by the A299 corridor with the landscape rising on either side with steeply formed domed hills used for grazing and arable farming. The area is generally open with field boundaries delineated by low hedges.
- Within the landscape are a number of built developments including the settlement of Yorkletts with industrial developments, ribbon development along Dargate Road and the more isolated farm buildings at the end of the access road.
- 9. The proposed industrial building would be in excess of 40m in length and 10 m in width with an eaves height of 5m and an overall ridge height in the region of 7m. The building would be clad in a corrugated metal and include a number of large industrial roller shutter doors on its ear elevation facing the proposed parking area. The bulk, scale and mass of the proposed building would be substantially larger than any of the other structures nearby, including the

White House, with its residential proportions, or the MOT centre, which is a significantly smaller building. The fenestration of the building, including the personnel doors and windows in association with the larger roller shutter doors add to the industrial and urban appearance of the building. The building is industrial in design and has little detail that would assist in providing it with a more rural or agricultural appearance. I accept that the colour, dark green, would be of some benefit, and that agricultural buildings are becoming more industrial in appearance but this building would appear very much as a large and incongruous industrial building in this rural setting.

- 10. The formalised parking layout and general arrangement of the site would further add to the urbanising effect of the development. Given that he site is prominently located on higher ground than the land to the south it would be readily visible. Moreover, when standing on the viewpoint in Victory Wood and from many public vantage points within that area, the site would be readily visible. Given its position it would interrupt views from the Wood and would be seen as an alien intrusion in the views down towards the low lying land to the south.
- 11. I accept that there are other buildings in the surrounding area including the original farm buildings for Lamberhurst Farm and the MOT centre but these either still retain their agricultural appearance or are smaller less bulky structures than that proposed. The Lamberhurst Farm Buildings are set in a more low lying location and therefore not so prominent a position in the wider landscape.
- 12. The existing use of the site would include open storage of heavy plant and vehicles and their repair. The potential for such a use to have significant visual impacts with an accumulation of various forms of vehicles is significant given the open nature of the description. The impact of the proposed development therefore needs to be considered in this context. I have concluded that the proposed building would represent an industrial and urban form of development that would be inappropriate in the countryside and, given its prominent position, would be harmful to the character and appearance of the area. Whilst the existing use would allow for open storage this would not enable a consolidated built form and would not lead to a significant urbanising effect. For this reason I conclude that the existing open storage, given its low level of activity, or even the potential impact from greater open storage that may still fall within the established use, whilst detrimental to the character of the area, would in my view be less harmful than the proposed building. Any further intensification of the existing use would be a matter for the Council to consider as to whether or not a material change had occurred.
- 13. A number of other developments and buildings were drawn to my attention, however, many of these were located in more low lying, and therefore less intrusive positions, than that the subject of this appeal, or were more closely related to the existing settlement pattern and built development in the area.
- 14. The proposed development is not required for agriculture, does not involve the re-use of existing buildings or provide a service that would enable the rural community to meet their essential needs as such it is not supported by policies for development in the countryside that might otherwise allow for some impact on the landscape.

15. For the reasons given above I conclude that the proposed development would result in material harm to the character and appearance of the surrounding area. Consequently it would conflict with SP1, SP2, E1, E6, E9 and E19 of the Swale Borough Local Plan 2008 which collectively include, amongst other matters, requirements for high quality, well designed, sustainable development that would protect and enhance the distinctive character of the countryside.

Living conditions

- 16. The established use includes the repair of heavy plant and vehicles. The Council accepted that this was a use that could fall within a B2 definition. The Council's Environmental Health department raised concerns at a B2 use being introduced, noting the location of the doors in relation to the adjoining residential property, the White House. At the hearing however the Council were concerned at the noise and disturbance that would arise through the intensified activity on the site and the coming and going of vehicles.
- 17. I have not been provided with any acoustic data on which to base a robust and sound technical assessment of the noise impact. However I note at paragraph 123 of the National Planning Policy Framework (the Framework) that it is advised that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life. Reference is made to the Noise Policy Statement for England, to which I have also had regard.
- 18. Whilst I have no detailed noise data it is evident that the existing use, with open storage and the potential for repair of heavy plant and vehicles, has significant potential to allow for noisy uses in the open air, and that these activities are unrestricted. The proposed development would introduce a building to accommodate the proposed uses and a parking area to the rear. The proposed building could be the subject of conditions including noise proofing, requirements to keep the doors closed when working and restrictions on hours of operation. The appellant confirmed they would be happy with such restrictions. This would have the significant benefit of being able to reduce and mitigate the noise from the proposed uses. Furthermore the appellant accepted that an acoustic fence could be placed on the boundary with the White House and that restrictions could be placed preventing any open storage, and with restrictions on the hours of use to include the access to the site, this could reduce the impact of any activity that may arise outside the building.
- 19. Given the combination of the fact the uses would be contained within a building and the potential for conditions to mitigate the potential noise impact I am satisfied that the proposed noise impact from the development would be no worse than that which arises from the existing lawful use of the site, and indeed would likely improve the situation. On this basis this would provide improvements to the potential impact on the well being and health of the occupier of the adjoining property.
- 20. The level of activity of the existing use is difficult to compare against that of the proposed. I have been provided with no traffic figures about existing vehicle movements to and from the site. However, given the unrestricted nature of the use this could generate a significant number of movements and the appellant has indicated that historically up to 30 large vehicles were operated from the site, a figure that was not contested by the Council. On this basis it is unlikely that the proposed development would generate traffic movements significantly in excess of these historical levels.

- 21. In terms of the physical impacts of the building I am satisfied that, given the separation and boundary treatment, the location, height and dimensions of the building would be such that it would not significantly affect the daylight or sunlight reaching the adjoining property, the White House. Nor would it result in a significant enclosing affect detrimental to the outlook from that property.
- 22. For the reasons given above I conclude that the proposed development would not harm the living conditions of the occupiers of the adjoining property, with particular reference to noise and disturbance. Consequently it would not conflict with policy E1 of the Swale Borough Local Plan 2008 which amongst other matters seeks to ensure development does not harm residential amenity.

Other matters

- 23. The appellant has suggested that the development would introduce a significant economic benefit to the local area safeguarding existing jobs and potentially increasing employment opportunities in the area. It was noted that the site presently has some 35 employees related to activities on the site. The proposed development would safeguard many of these jobs and provide the operators with more suitable accommodation thereby securing their commitment to the site and the area. As, in the absence of the development, they may look for alternative accommodation. It was suggested that the development could employ up to 40 jobs.
- 24. The appellant suggested that unemployment in the area was high and above the national average; this was not disputed by the Council.
- 25. I have not been provided with details of the existing occupiers or their intentions and this therefore limits the weight I can give to these comments. However, there is still significant weight to be given to a small employment generating use in an area where unemployment is relatively high.

Overall conclusions

- 26. The Framework introduces a presumption in favour of sustainable development which is a golden thread that runs through it. At paragraph 7 the Framework identifies the three dimensions of sustainable development as economic, social and environmental. Whilst the proposed development would support the economic role, the nature and form of the development is not such that it supports the environmental or social role. The poorly designed building would be inappropriately sited and harmful to the character of the area. The adverse effects arising from the development would not be outweighed by the positive benefit deriving from any economic benefit.
- 27. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Edward Newfield Albion Property

Keith Plumb Woodstock Associates

John Smith Appellant

Darren Smith Family member of Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Spiers Planning Officer Swale Borough Council

Alice Reeves Planning Officer Swale Borough Council

INTERESTED PERSONS:

Charles Boyle Resident of the White House

DOCUMENTS SUBMITTED AT THE HEARING

- Tech Surveying Services PLAN 9718/15 @ A3 scale 1:500 with relocated building identified submitted by appellant.
- Tech Surveying Services Plan 9718/15 @ A1 Scale 1:100 with relocated building identified submitted by appellant.
- Swale Landscape Character and Biodiversity Appraisal Supplementary Planning document September 2011 submitted by Swale Borough Council
- Copy of Established Use Certificate SW/91/56 for storage and repair of heavy plant and vehicles at yard adjacent to Lamberhurst Farm, Dargate, Hernhill nr Faversham Kent submitted by Swale Borough Council.