

AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 26 April 2018

Time: 7.00pm

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

Membership:

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

Quorum = 6

Pages

1. Fire Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 29 March 2018 (Minute Nos. 595 - 601) as a correct record.

4. Declarations of Interest

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

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

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

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

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

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

Part B reports for the Planning Committee to decide

5. Deferred Item

1 - 77

To consider the following application:

17/502338/FULL, Brotherhood Wood, Gate Hill, Dunkirk

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

Requests to speak on this item must be registered with Democratic Services (democraticservices@swale.gov.uk or call us on 01795 417328)

by noon on Wednesday 25 April 2018.

6. Report of the Head of Planning Services

78 - 179

To consider the attached report (Parts 1, 2, 3 and 5).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 25 April 2018.

7. Exclusion of the Press and Public

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

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

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

8. Report of the Head of Planning Services

To consider the attached report (Part 6).

Issued on Tuesday, 17 April 2018

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

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PLANNING COMMITTEE – 26 April 2018**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

REFERENCE NO - 17/502338/FULL				
APPLICATION PROPOSAL Variation of conditions 2 ,3 ,4 and 5 of planning permission SW/13/0137 Change of use for gypsy and traveller site to incorporate previous site approvals, increase number of pitches, relocate and enlarge communal facility building. Includes parking, lighting, fencing and landscape buffer. Condition 3 - to increase the total number of permanent caravan pitches to 40 with a dayroom on seven of the pitches; each pitch to have not more than one static caravans/mobile homes with space for car parking, and a touring caravan, as amended by drawing 2549/PL/Sk05 Revision D.				
ADDRESS Brotherhood Wood, Gate Hill Dunkirk Faversham Kent ME13 9LN				
RECOMMENDATION – Grant subject to conditions				
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The scheme addresses criticisms of the approved scheme for this site and provides an opportunity to improve the quality of the pitches on the site.				
REASON FOR REFERRAL TO COMMITTEE Deferred from Planning Committee on 5th March 2018				
WARD Boughton And Courtenay		PARISH/TOWN Dunkirk	COUNCIL	APPLICANT Mr Joseph Robb AGENT Philip Brown Associates
DECISION DUE DATE 22/08/17		PUBLICITY EXPIRY DATE 02/02/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):				
App No	Proposal		Decision	Date
SW/13/0137	Change of use for gypsy and traveller site to incorporate previous site approvals, increase number of pitches, relocate and enlarge communal facility building. Includes parking, lighting, fencing and landscape buffer.		Approved	16/04/2013
SW/11/1271	The use of land for the stationing of caravans for residential purposes for 7 no. gypsy pitches and 2 no. transit pitches together with the formation of additional hard standing, utility/dayrooms ancillary to that use.		Approved	19/12/2011
SW/11/0163	Application for variation of condition 13		Approved	04/04/2011

	(restriction on storage) of planning permission SW/10/1362.		
SW/10/1362	The use of land for the stationing of caravans for residential purposes for 4 gypsy pitches (2 single pitches, 1 double pitch) together with the formation of additional hard standing, utility/dayrooms ancillary to that use and the retention of an existing stable block.	Approved	13/12/2010
SW/10/0599	The use of land for the stationing of caravans for residential purposes for 4 gypsy pitches (2 single pitches, 1 double pitch) together with the formation of additional hard standing, utility/dayrooms ancillary to that use and the retention of an existing stable block.	Refused	04/08/2010
SW/07/0950	Change of use for siting two twin residential caravans and two touring caravans, and erection of stables.	Approved	12/10/2007
SW/97/0923	Retention of mobile home	Approved	02/03/1998
SW/86/1053	Renewal of temporary permission SW/81/444 for use of land for fencing yard for making palings stakes hurdles including logging and stacking of pulpwood/timber	Approved	11/11/1986

1.0 INTRODUCTION

- 1.01 This matter was debated at the 5th March 2018 meeting at which Councillor Bowles, the Dunkirk Parish Council and the applicant's agent spoke. The minutes recorded the debate as follows;

"The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

A Ward Member (not a member of the Planning Committee) spoke against the application and stated that the applicant had consistently failed to develop on the site in accordance with conditions. He raised concern with the loss of trees on the site, and that the application could set a precedent as there were blocks of woodland up for sale. He considered the report was not consistent with other applications, as it stated that this application site was sustainable, being close to Dunkirk Village Hall.

A second Ward Member did not support the application. He stated that the applicant had not abided by previous conditions but the site had not had enforcement action. Members raised points which included: woodland could not be treated like this; action was needed, enough was enough; and there was a lack of enforcement action on the site.

In response to comments, the Area Planning Officer explained that the application was to re-plan within the existing site plan, not to expand the site or remove any

more trees. Members were being asked to approve the layout. He explained the background to the site, and stated that the application would enable the site to be regularised and fit for purpose.

On being put to the vote the motion to approve the application was lost. At this point the Head of Planning Services used his delegated powers to 'call-in' the application.

Resolved: That as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance, determination of the application be deferred to a future meeting of the Committee."

- 1.02 This report attempts to address points raised by Members at the 5th March meeting and to set out the argument for approval of the application concisely, and with additional background information for Members' benefit. The original report is attached as an appendix to this item.

2.0 MATTERS RAISED BY MEMBERS

- 2.01 The planning history of the site is one of approvals which have not all been implemented in accordance with the approved drawings or conditions imposed. To that extent there have been enforcement issues. These have included;

1. the site not being laid out in accordance with the current approved layout
2. the number of caravans exceeding the current permitted number
3. compliance with planning conditions of the current planning permission
4. questions of the occupancy of caravans, and
5. questions over the use of the communal building within the site

Other matters have also been raised in relation to the site's surroundings, including;

6. felling of trees to extend the site to its current size
7. burning and smoke in the area
8. cutting down of trees protected by a Tree Preservation Order (TPO)
9. an extension of the site at the south western corner, and
10. the site is not sustainable, as officers confirmed in relation to permanent housing proposed nearby

- 2.02 Enforcement action is discretionary and should not be taken lightly, or simply because it can be. Ideally, matters can be resolved in other ways, voluntarily, via negotiation, or by the submission of a retrospective planning application. If those avenues fail, strong and effective enforcement action can be justified. It is worth noting the current position in relation to the above numbered matters;

- In relation to point 6 above; the trees that were felled in or around 2010 were not protected at that time. Subsequently, the Council granted planning permission for the site to be extended across the felled area. That felling did not represent a breach of planning control. The Council took the precaution of serving a very wide ranging group TPO after this episode of felling, but that TPO does not affect any part of the current application site. No trees are threatened by the current application.
- In relation to point 8; this has happened close to the site, but not within it and this is being treated as a separate matter. The Council has acted decisively

here and has obtained a High Court Injunction, and will consider taking the matter to prosecution if that injunction is breached.

- In relation to point 7 I have seen no evidence that this is a planning related matter other than in relation to possible burning of illegally felled trees; see above note.
- In relation to points 4 and 5 above the Council has surveyed the site and gathered evidence about its use. Subsequently the Council has taken formal enforcement action.
- Point 9 does not relate to the application site itself, but to adjacent land. Again, the Council has also taken formal enforcement action, but that does not affect the merits of the current application.
- Councillor Bowles suggested (point 10 above) that the site is not sustainable as this was suggested by officers when recommending refusal of permanent new housing nearby recently. This is a misleading comparison. Permanent housing is not promoted in rural locations, but gypsy and traveller sites are most commonly found outside built up areas. To that extent the question of sustainability is relative and, in this case, the site is close to services such as the village hall, petrol filling station and shop, and it has good transport links to other amenities or facilities including being located on a bus route. Accordingly, the site scores well in terms of sustainability compared to the general locations of gypsy and traveller sites, and it is not appropriate to draw comparisons with locations of permanent housing.
- Finally, in relation to points 1, 2 and 3 above, officers have sought to negotiate with the applicant to achieve compliance with the approved development, which are matters controlled by planning conditions. The applicant has made some efforts to respond to the concerns of officers regarding landscaping, by removing laurel plants and retaining open fences to the western site boundary. However, despite numerous requests, the site layout and number of caravans thereon have never accorded with the 2013 approved scheme. The applicant has explained that although he has invested heavily in the site, the site levels (which slope gently down to the north) have made it impossible to set out the site as approved. Whilst I don't fully understand why this might be so, it is clear that the applicant feels that there is some difficulty here.

Accordingly, whilst straightforward enforcement action would have been possible, the circumstances have indicated that it might be preferable for the applicant to seek approval for a layout that he can implement. This application is the result and has come about due to pressure from officers on the applicant to either adhere to the approved scheme or face enforcement action.

Approval of this application would present the opportunity for the Council to seek compliance with the new scheme. Refusal would leave the Council free to take enforcement action in respect of the approved scheme, having first considered whether it is expedient to do so via consideration of the current application as an alternative.

- 2.03 The analysis above indicates that the majority of enforcement matters, or matters raised by Members, are either not related to this application site, or are being tackled already by appropriate mechanisms. These should not affect the consideration of this application. This application does not seek to authorise any of the above matters, or to override any action we are already taking, or have taken. Those matters that are not already subject to legal action are essentially the substance of the current application. This application proposes a different site layout which has not yet been considered or developed. It is not a retrospective application. All proposed pitches have space for

mobile and touring caravans, and many more pitches have dayrooms than in the 2013 approved layout. There is an increase in overall pitch and caravan numbers, but this is all within existing site boundaries, and approval of this application will not authorise any site expansion or loss of protected trees.

3.0 WHETHER TO TAKE ENFORCEMENT ACTION AGAINST NON-COMPLIANCE WITH THE EXTANT PERMISSON OR TO APPROVE THE CURRENT APPLICATION

- 3.01 The currently approved site layout and caravan numbers were approved in 2013. At that time the Government advice in “Planning policy for traveller sites” (PPTS) had been published in March 2012 and contained the following definition of “gypsies and travellers”;

*“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 **or permanently**, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.” (my **emboldening**)*

The 2013 approved site layout envisaged removal of three previously approved double pitches which provided space for two caravans and dayrooms, and the provision of 22 single pitches with space only for a mobile home, parking of one vehicle, a storage shed and a washing line. It also proposed seven large double pitches and a communal building for use by site residents including toilets, showers and recreation rooms. The logic behind this was that whilst private site provision was the preferred method of meeting pitch demand, there were gypsies or travellers unable to afford to buy their own site, and these smaller pitches could be rented. The lack of space for a touring caravan or day room on the smaller pitches was not seen as a problem because continuation of a nomadic habit of life was not required to meet the above PPTS definition, and the day room provision on smaller pitches was met by the large communal building within the site.

- 3.02 However, in August 2015 the Government re-issued PPTS with a new definition of “gypsies and travellers”. This removed the option to have ceased travelling permanently by deleting the words I have emboldened in the above definition. The new definition is as follows;

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

The new definition removed those who have permanently ceased to travel from the definition, leaving only those who travel or who might have only temporarily ceased to travel. Accordingly, it is now seen as important that traveller sites have scope for a caravan in which the occupants can continue to travel to seek work. In other words a site containing simply a mobile home that can only be moved by lorry will not provide an easy means for families to travel to seek work and retain their gypsy and traveller status. Accordingly, space for a touring caravan on a pitch is now more important but the approved single pitches here do not provide that. Since the 2015 change of definition it has therefore been possible to criticise the currently approved site layout as being unsuitable for gypsies and travellers. It has in fact now become commonplace for appellants on unsuitable and unsustainable sites which the Council

has refused planning permission and/or taken enforcement action against to argue at appeal that the Brotherhood Woodyard site does not meet the needs of gypsies or travellers. This then translates into an argument that the site's contribution to pitch supply should be discounted; and therefore that the Council's pitch provision is less than we suggest.

- 3.03 The background to this is that Council's latest Gypsy and traveller accommodation assessment (GTAA) published in 2013 suggested a pitch target of 85 pitches for Swale to 2031. The 2015 revised PPTS changed the planning definition of a gypsy and traveller (see above), and therefore changed the number of pitches that needed to be identified. Evidence to the Local Plan's Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country.
- 3.04 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Local Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period was revised down to a figure of 61 pitches to 2031, leaving (at the time of the Local Plan EIP) a need per year of less than one pitch, meaning that no formal pitch allocations were needed, and future site provision could reasonably be expected to be catered for via windfall planning applications. This approach has in fact lead to the approval of 63 permanent pitches since 2013 (almost all without an appeal) and the Council has therefore been able to claim that it has already more than met the need for pitches to 2031, that it has a five year supply of sites as required by PPTS, and that an unsuitable site elsewhere is not necessary to meet pitch need. However, 19 of these 63 pitches are on the current application site at Brotherhood Woodyard based on the 2013 planning permission. This amounts to almost one third of the Council's entire supply of new pitches.
- 3.05 This significant contribution to site supply from the current application site has made it helpful to their case for appellants elsewhere to argue that the 2013 approved single pitches at Brotherhood Woodyard do not meet the requirements of those who meet the new 2015 PPTS definition of gypsies or travellers. This has lead some Planning Inspectors to deduct the 19 single pitches approved in 2013 from the Council's claimed supply of sites, leaving an outstanding pitch need to 2031. In one case the Inspector then also went on (wrongly) to assume that the Council did not even have a five year supply of sites, and he granted a temporary planning permission on that basis. This conclusion refers to the appeal decision at Spade Lane, Hartlip where the Inspector concluded as follows (December 2017);

"22. A specific ongoing issue was raised however concerning one of the larger sites in the Borough, Brotherhood Woodyard, where permission for 19 pitches was granted in the relevant period. It seems that the site layout was not in accordance with the permission, and there were allegations that the occupants of the pitches, which exceeded the 19 permitted, did not meet the PPTS definition. The response to a Planning Contravention Notice issued last year stated that all of the relevant pitches are now occupied by travellers, but there remains the outstanding issue of its suitability for travellers actively pursuing a nomadic way of life. In essence, the site is currently dominated by

static caravans with no room for touring caravans and no day rooms. The Council has opened an enforcement case and there is currently negotiation on a revised planning application, which seeks to increase the number of pitches.

“23. It seems to me that the Council is being pro-active and is well advanced in its approach to resolving the planning issues at Brotherhood Woodyard. However, the site makes up a large proportion of the identified need, and the evidence I heard suggests that there must be considerable doubt that the site is at present genuinely meeting the identified needs of travellers who meet the PPTS Annex 1 definition. In the light of this I consider that it would be reasonable and appropriate to take a precautionary approach and disregard the contribution made by this site to meeting the identified need. This leaves a substantial shortfall over the full plan period and, on the balance of probability, in the 5 year supply, as discussed further below. These are matters which carry significant weight in favour of the appeal.”

- 3.06 Notwithstanding the fact that the Council is seeking to have this decision quashed by the High Court, it has been referred to on behalf of appellants elsewhere, including those at Ospringe in the Kent Downs AONB (in an appeal at The Retreat, Newnham Valley, January 2018) who have suggested that;

“4.16 The LPA has granted planning permission for a site near Dunkirk (Brotherhood Wood, Gate Hill, Dunkirk, Faversham) for Mr Joseph Robb, with a substantial number of plots (“no more than twenty nine (29) permanent single pitches across the overall site area, incorporating the pitches previously approved by planning permissions SW/10/1362, SW/11/0163 and SW/11/1271, on which no more than an absolute overall maximum of thirty six (36) caravans”) and the LPA are relying of that site to meet a large part of the unmet need for the Swale District. We are not confident that the pitches can be relied upon to meet the unmet need.

4.17 The design of the pitches on the site is not uniform, and some of the pitches are smaller than others. Recently the development control committee were objecting to new provision on the basis that pitches were not a minimum of 500 square meters. Some of the pitches on the Brotherhood Wood, Gate Hill site are closer to 200 square meters, which would indicate that they would be more appropriate as transit pitches, or Park Homes style pitches, and not suitable provision to be counted against the unmet need for permanent pitches within Swale BC. The Inspector considered this in the previous Blind Mary’s Lane Appeal decision (2222135). Besides which, it has been indicated that much of the site is already occupied by overseas Romani which could well add to the 2013 GTAA assessment of need for 35 pitches to 2017.”

- 3.07 In this case the Inspector was appraised of the (then) very recent site survey with the police and immigration service and helpfully concluded (January 2018) that;

“27. The appellant notes the recent conclusions of the examining Inspector but considers that the local need for gypsy and traveller sites has not been satisfied on the ground and there remains unmet need. In particular a recent appeal decision at Spade Lane, Hartlip is referred, to together with the Council’s formal Count of Caravans undertaken in July 2017. In the former, the Inspector concluded that there was considerable doubt over whether the site at Brotherhood Woodyard in the parish of Dunkirk would deliver the 19 pitches allowed or that these would be suitable for gypsies and travellers that met the

Annex 1 definition in the PPTS. However, at the Hearing the Council explained that there had been very recently a multi-agency intervention at the site concerning enforcement issues which the Council is pressing to resolve. Following further discussions with the landowner the Council says that the extent and availability of pitches on this site would be resolved in the outstanding planning application. On the basis of the written and oral evidence put to me I am satisfied that there is not now significant doubt over the deliverability of the pitches on the Brotherhood Woodyard site.”

Nevertheless, the same Inspector expressed caution regarding the availability of alternative sites and, whilst he dismissed the appeal at The Retreat, he granted a temporary and personal planning permission on the nearby Meads Farm site.

- 3.08 I remain concerned that the approved site layout can be seen as out-of-date. Whilst it was compliant with the 2012 version of PPTS, we will continue to face criticism that the approved site layout at Brotherhood Woodyard fails to meet the needs of gypsies and travellers, and hear arguments that it should be discounted from the Council's pitch supply figures, undermining our ability to control which new or unauthorised sites are and are not approved. Even the helpful intervention by the Chairman of Dunkirk Parish Council at a recent appeal hearing to confirm that the situation at Brotherhood Woodyard is an enforcement rather than a supply issue has not completely settled the matter in our favour.
- 3.09 The question therefore arises regarding what the advantage would be of refusing the current application. Although she is no supporter of the possible increase in authorised pitches that approval of this application will provide (to the detriment of her clients' chances elsewhere), even the main objector to the current application who is a planning consultant representing sites at appeal elsewhere, has said in relation to the current application (**my emboldening**);

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

The full text of this objection can be found in the original report attached to this item.

- 3.10 Dunkirk Parish Council continues to raise objection to the proposed site layout (referring to Mrs Heine's above objection) as follows;

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

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

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

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

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

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

Clearly this is overdevelopment and should be refused."

These comments relate to an earlier iteration of the current planning application.

- 3.11 There are no other statutory objections to the application.

4.0 BACKGROUND PAPERS AND PLANS

- 4.01 Application papers and correspondence for application 17/502338/FULL

- 4.02 Application papers and correspondence for applications SW/86/1053, SW/97/0923, SW/07/0950, SW/10/0599, SW/10/1362, SW/11/0163, SW/11/1271 and SW/13/0137

5.0 APPRAISAL

Issues raised by objectors

- 5.01 In the original report I summarised issues raised by Dunkirk Parish Council, Kent Wildlife Trust and the planning agent objector including the *following numbered points 1 to 29* which I responded to as follows, and I repeat these points here now. These cover many of the planning issues with the application.

1. *This is a retrospective application following intentional unauthorised development*
In relation to this point I have said above that this comment may have been fair in relation to the application as first submitted. However, the changes to the application now show it as an application for something that has not yet been developed. Thus what is now due for determination is not retrospective, even though it might help to overcome the current unauthorised nature of the site layout.
2. *The site is in a rural location where development is not normally permitted*
Members will be aware that development is not normally permitted in rural areas. However, policy DM10 provides for gypsy and traveller sites in rural areas as an exception to that norm.
3. *Approval would be contrary to adopted Local Plan policies ST3, DM10 and DM24*
These policies seek to promote sustainable patterns of development, acceptable gypsy and traveller sites, and to protect valued landscapes. The site is close to a service centre, Dunkirk Village Hall, and has good road access. It meets all relevant criteria of policy DM10 and is already approved for this use. Although within a protected landscape the site is surrounded by extensive woodland, the site is not proposed to be enlarged, and I can see no additional harm to landscape arising from this proposal.
4. *Loss of ancient woodland*
As I have already stated, the site boundaries are not being extended in this application. I am aware that trees covered by a TPO have recently been felled nearby, and that the work has been done at the south-western corner of the site to extend it. None of these matters are part of this application and should not affect its determination.
5. *Site not operating as a Gypsy and Traveller site, but is occupied by migrant workers*
Recent investigations have supported these allegations and that issue is now the subject of ongoing investigation and enforcement action. This application is not to vary the terms of the occupancy condition on the site, and the current occupation of the site should not affect determination of this application.
6. *The communal building is not suitable or being used as such*
Recent investigations have supported this allegation and that issue is now the subject of ongoing investigation and enforcement action. This application is not to vary the terms of use of the communal building, and the current use of the site should not affect determination of this application.
7. *Not suitable as a Gypsy and Traveller site, and does not provide space for touring caravans*
This comment may have been fair in relation to the application as first submitted. However, the changes to the application based on Officer advice mean that all pitches now have room for a touring caravan to allow occupants to maintain a nomadic habit of life. These changes have, to my mind, overcome this initial criticism.
8. *There is no demand from Irish Travellers for this site*
Recent planning appeal hearings have heard evidence of an unmet need in Swale for gypsy and traveller pitches despite the Council having approved more pitches than the GTAA revised need figure required. This figure has always been seen as a target rather than a ceiling and given that PPTS and the GTAA do not differentiate between different ethnic groups (nor would this planning permission) I find it hypocritical of those who argue that there is no need for more pitches. Accordingly, this scheme

could meet additional demand for a well located and affordable site, and the Council should not be distracted by the applicant's ethnicity.

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

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

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

10. Sites ought not to have more than 15 pitches

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

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

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

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

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

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

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

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

The amendments to the application now overcome this initial criticism.

15. There is only space for mobiles of up to 30sq m which will provide less space than housing standards require

Caravan legislation specifies the size of caravans. This permission will not specify the size of any caravan and there is no reason to suspect that the caravans will be inadequate. In any case a number of pitches also have dayrooms and there is a large communal building for other needs.

16. The layout does not show parking spaces

The amended layout scheme shows at least one parking space on each pitch, more on the larger pitches.

17. The layout is unimaginative, cramped and represents overdevelopment of the site

The layout includes a variety of pitch orientation, includes cul-de-sacs as per previous design guidance, and many pitches back onto woodland. A central green amenity area, play area and communal building offer a variety of opportunities for recreation.

18. *The layout does not provide individual pitches which count towards the local need*
The pitches are clearly identified as self-contained with spaces for caravans, parking, washing and storage. They should all be seen as individual pitches.
19. *The site has been extended into nearby woodland*
The site layout as proposed does not extend the approved site boundaries in to the woodland. Any clearance of woodland is a separate matter.
20. *Is the site the same size?*
Yes, the approved site boundaries have not been extended in this application
21. *Lack of enforcement action on the site*
The Council has responded to local allegations both by way of Planning Contravention Notices in 2016 and more recent investigations. This matter should not affect determination of this application.
22. *Cutting down of trees covered by a TPO on the site and nearby*
This matter is wholly irrelevant to the merits of this application and should not affect determination of this application.
23. *The Council now has the chance to correct previous errors*
The 2013 approved scheme has been subject to criticism. Those criticisms often concerned the small size of the single pitches which did not include space for touring caravans. That planning permission was issued before the 2015 re-issue of PPTS which changed the planning definition of gypsies and travellers to exclude those who no longer travel. Previously, even those who had previously travelled would have been included and thus not to have a touring caravan was not critical. This scheme now addresses the new PPTS guidance and provides the opportunity for all occupants of the site to travel and accord with the current PPTS definition. Accordingly, whilst I do not see the 2013 approval as an error, this application allows the site situation to catch up with the changes to PPTS.
24. *The Council has a five year supply of sites and this development is unnecessary*
Recent planning appeal hearings have heard evidence of an unmet need in Swale for gypsy and traveller pitches despite the Council having approved more pitches than the GTAA revised need figure required. This figure has always been seen as a target rather than a ceiling and the simple fact that a figure has been reached does not mean that otherwise acceptable development should be prevented.
25. *The Council is not required to meet site demand*
The Council is required to meet the need for pitches. Demand may well be higher, but an otherwise acceptable scheme should not be rejected just because it meets demand.
26. *The site has been found not to suit Romany gypsy need*
The site has not been developed nor specifically proposed for Romany gypsies. However, In Swale we have both Romany and Irish gypsies. The site has been found suitable for gypsy and traveller occupation and the ethnicity of the applicant should not be a reason to refuse planning permission.
27. *The applicant has knowingly undertaken this development without planning permission*
This is not a fair criticism of the application in its current form.

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

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

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

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

6.0 DISCUSSION

6.01 At the 5th March meeting Members spoke mainly of matters not related to the merits of the current application and, having voted not to approve it, I intervened to call the application in for further advice. I have set out above the way in which planning policy has shifted since the 2013 approval, and how the approved site layout is now being criticised. I do not doubt that even if this scheme is approved others will continue to criticise it. However, in my view, the main plank of the recent criticisms will be overcome by approval of the proposed layout allied to recent enforcement actions. As the proposal does not involve any extension of the site boundaries I see no reason to refuse the application and I see difficulty arguing at appeal that these matters are relevant to the decision. Nor do I consider that an argument based on non-compliance with conditions of previous planning permissions would be upheld at appeal. To argue so would, I believe, leave the Council very exposed to the risk of paying the appellant's legal and/or professional costs.

6.02 On the other hand, the scheme before the Council now is similar to that which has already been approved save for three main differences;

- All pitches now have space for a touring caravan
- More day rooms are included
- The total number of pitches has risen from 29 to 40 (plus the touring pitches)

The first two of these changes are in the application's favour, whilst the third has very few adverse consequences. The site will remain well screened by protected trees and the increase in the number of pitches will not be obvious. Crucially, the increase in pitch numbers does not involve encroachment into undeveloped areas. It also includes seven larger double pitches (which the 2013 scheme included) and does not therefore dilute the quality of variety of pitch sizes that the 2013 scheme provides for. I sense that approval of the scheme will not suit those that oppose it being treated as part of the Council's legitimate pitch supply figures, and I do not think we should be distracted by these motives.

6.03 I have considered whether any matters raised by Members, by the planning agent objector, or by the Parish Council could amount to a defensible reason for refusal of the application. I have not found this to be so, but I do find that approval of a scheme which overcomes existing criticisms may help to strengthen the Council's position elsewhere. The Council's pitch supply position is always under intense scrutiny at planning appeals, and the shortcomings of the 2013 approved layout have provided an opportunity to undermine the Council's progress on pitch supply. This significant progress on pitch supply is something that the Council should be commended. It does

not mean that any increase in pitch numbers here is required, but nor does it mean that acceptance of an increase in pitch numbers should automatically be rejected. At appeals the Council has consistently argued that the GTAA pitch requirements are a target, not a ceiling, and this approach has been well received by Inspectors. Approval of this scheme will be clear evidence of that approach in action, and that it is working, as accepted by the Local Plan Inspector. It will justify the approach of pitch provision via windfall planning applications, without the need for gypsy and traveller site allocations.

7.0 CONCLUSION

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

8.0 RECOMMENDATION – GRANT Subject to the following conditions:

CONDITIONS

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

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

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

Reason: For the avoidance of doubt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

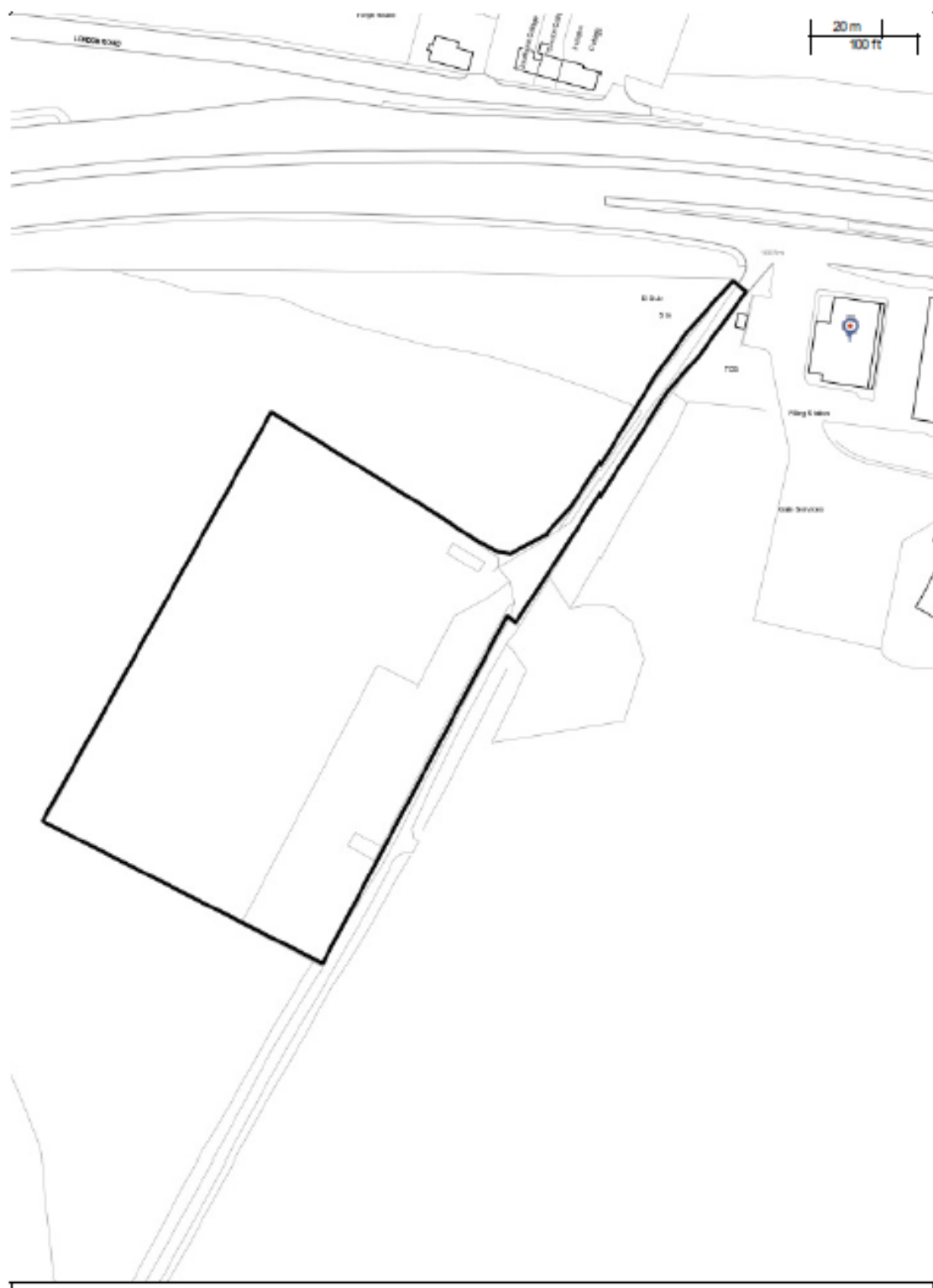
Reason: In the interests of the amenities of the area, and because the site lies in a rural location where new residential use would not normally be permitted.

Council's approach to this application

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

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

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



APPENDIX 1

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

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

1.0 RELEVANT SITE HISTORY AND DESCRIPTION

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

The site's planning origins

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

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SW/86/1053 in 1986, extending the use to 1991. Outline and later detailed permission for a workshop building on the site was approved in 1991, 1994 and 1996.

APPENDIX 1**The site becomes a gypsy and traveller site**

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

Expansion of the site to its current dimensions

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

Members resolved to refuse permission for the following reason;

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

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

APPENDIX 1**The 2013 current planning permission**

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

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in a spread of illegal sites and temporary permissions being granted, which are not ideal in planning terms or in relation to the settled community.

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

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

2.0 PROPOSAL

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

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

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

- 2.02 As such, the applicant recognises that the development so far does not accord with the 2013 planning permission and is liable to enforcement action. The application does not seek to vary the gypsy and traveller occupancy condition, but is described as to vary conditions to reflect the proposal to re-arrange the site layout whilst maximising the capacity of the site to provide pitches with adequate dimensions and

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facilities. The applicant's explanatory letter is attached as Appendix 1 to this report. In this letter the reference to condition (7) being unnecessary refers to the fact that, as first submitted, the current application proposed that the site be developed without any day rooms. This has now been amended on revised drawings. This letter remains the applicant's only written support for the application as, despite my suggestion to the applicant that he might wish to consider responding in writing to the objections referred to below, I have not received any such response.

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

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- 2.09 The 2013 approved communal building has been erected (albeit there are concerns about its current use) and does not form part of this application. What is now due for determination is the proposed site layout including the number of caravans, which rises from a maximum of 42 (36 caravans on 29 pitches plus seven caravans on seven transit pitches) to 87 (80 caravans on 40 pitches plus seven caravans on seven transit pitches). This increase comprises an increase in static mobile homes from 29 to 40, but with an increase in capacity for touring caravans from 7 to 40 on the permanent pitches.
- 2.10 All this is proposed without extending the site into the surrounding woodland. The approved 2013 layout drawing shows the site measuring 155m x 99m overall at a scale of 1:1250, whereas the current application shows the overall site (according to a recent survey and a drawn at the much larger scale of 1:200) as measuring 150m x 99m. This is the scheme now before the Council.

3.0 PLANNING CONSTRAINTS

Ancient Woodland

Potential Archaeological Importance

Tree Preservation Order Polygon MBC_SBC Reference: 7934/TPO

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

4.0 POLICY AND OTHER CONSIDERATIONS**National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued)**

- 4.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 4.02 I consider that the following extracts from paragraph 7 are particularly pertinent:
- “There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

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- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

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

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

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

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

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

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

Planning Policy for Traveller Sites (PPTS)

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

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

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

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

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

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

- a) promote peaceful and integrated co-existence between the site and the local community
- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services

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- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)

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

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

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

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

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

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

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

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

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

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re-issue of PPTS. I further note that the Council now has a far more than 5 year supply of sites via its newly adopted Local Plan and past completions and outstanding permissions, which I will refer to below.

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

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as as such.”

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

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

DEVELOPMENT PLAN POLICY AND PITCH SUPPLY MATTERS

Bearing Fruits 2031: The Swale Borough Local Plan 2017

- 4.10 Evidence to the Local Plan’s Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life
- 4.11 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period is based on a figure of 61 pitches to 2031. At that time 51 permanent pitches had been approved by the Council since the GTAA was commissioned and the remaining pitch supply need to 2031 was just 0.2 pitches per annum. Despite formal objections, the Inspector discounted any concerns about site supply by referring to this very small remaining need (over the full plan period) and

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adding that the early review of the Plan (required for other reasons) would deal with any concern about the five year supply situation. Since then a further 14 permanent pitches have been approved and site supply (65 permanent pitches since 2012) now exceeds the need estimate accepted by the Local Plan Inspector. The remaining pitch need (at the time of the Local Plan EIP) of less than one pitch per year meant that no formal pitch allocations were needed, and the Inspector concluded that future site provision could reasonably be expected to be catered for via windfall planning applications. Draft Local Plan Policy DM10 was then revised to deal with these windfall applications. Accordingly, a Part 2 Local Plan is not required and the Inspector confirmed that the Council's approach to this matter was well reasoned and pragmatic. She also accepted that the Council's approach would result in a Plan that will be effective and consistent with national policy.

- 4.12 It has recently been suggested (at an appeal hearing on 31 October 2017) that the Local Plan Inspector ordered an early review of the Plan due to concerns over the accuracy or adequacy of the 2013 GTAA. Whilst the Council has commissioned a new GTAA to inform the review of the Plan this is not so, and it is clear from paragraphs 5, 18 to 20, 51 and 95 to 106 of the Local Plan Inspector's final report that it was due to the need to consider strategic highway capacity to meet the Borough's proposed housing targets (not to review the GTAA evidence) that the early review of the Plan was deemed necessary
- 4.13 The Local Plan has now been adopted, and thus the position has been formalised. The key adopted plan policy to deal with windfall planning applications for new sites now is DM 10 (Gypsy and Traveller sites).

Policy DM10 of the adopted Local Plan states:

Part A: Retention of sites for Gypsies and Travellers

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

Part B: Gypsy and Traveller sites

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

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
 - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
 - b. *where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
 - c. *the proposal is for an extension to, or stationing of, additional caravans at an existing site.*
2. *Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a*

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nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);

3. *Can achieve an integrated co-existence between all communities;*
4. *Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*
5. *Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;*
6. *Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;*
7. *Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;*
8. *Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;*
9. *Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;*
10. *Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;*
11. *Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and*
12. *Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.*

4.14 Other relevant newly adopted policies now are;

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

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

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

Five year supply position: The latest position of site provision

- 4.15 Of the 61 pitches needed to 2031, and at the time of writing, 65 pitches have already been granted permanent planning permission meaning that the outstanding need for pitches to 2031 has now been met. The Local Plan Inspector considered (June 2017) that on the basis of the past trend of a rapidly rising number of approved permanent sites, any remaining need (at that time) could easily be met from windfall proposals. This has proven to be the case. This indicates that by proper engagement with the Council, appropriate sites can be found in sustainable and acceptable locations in Swale (generally outside of the AONB or other designated area) without

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an appeal, meaning that there is a high probability of those in need being able to find an acceptable alternative site with minimal delay.

- 4.16 Moreover, whilst the majority of these pitches have already been implemented and occupied (resulting from the retrospective nature of their permission, or arising from them being made permanent after an initial period of temporary permission pending policy formulation) there are a number of fresh planning permissions that have not been implemented and are unquestionably in “supply”. The already implemented supply means that many gypsies and travellers resorting to Swale now have a secure and permanent base in an acceptable and sustainable location. Additional similar provision has also been made which is yet to be implemented. The GTAA’s (revised) full pitch requirement for Swale up to 2031 has already been met, and in practical and physical supply terms the need for sites can be said to be met for the next 14 years. Even if a rather theoretical approach to supply is calculated, the Council has a seven year supply of sites, but that by August 2017 (prior to recent approvals for further permanent pitches) that supply was as much as 11.7 years. Four further permanent pitches have been approved since then and two permanent pitches (with a personal condition) were approved on appeal in February 2018.
- 4.17 In February 2017 in an appeal decision relating to a proposed Gypsy and Traveller site at Bredgar, and based on information presented to the informal hearing as long ago as September 2016, the Inspector accepted that the Council had a five year supply of sites, saying that;

“...in view of the now significantly reduced level of need combined with the reasonably substantial increase in the number of permitted sites, many of which have now been implemented, overall I consider that that the Council has now demonstrated that it does have a five year supply of deliverable sites. On this basis there is no apparent need for further sites in the short term and in the longer term any outstanding need that might be established would be likely to be dealt with through the provisions of the emerging development plan”.

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

- 4.18 My view is that these appeal decisions need to be treated with some caution and the first is already subject to legal challenge by the Council. Both decisions discount the pitch supply contribution made by the 2013 planning permission at the current application site due to concerns over site layout and occupancy. I have tried to make this clear that these matters are enforcement issues rather than supply issues. Dunkirk Parish Council themselves share this view. However, two Inspectors have effectively ignored the 2013 planning permission and granted planning permission for sites elsewhere based on the Council’s site supply falling short of 5 years.

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- 4.19 Finally, the Government's Chief Planner announced on 31 August 2015 (the same day PPTS was re-issued) a policy that from that date all applications and appeals that involve intentional unauthorised development this fact can be a material planning consideration.

5.0 LOCAL REPRESENTATIONS**5.01 Swale Footpaths Group has commented;**

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

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

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

The Council has repeatedly assured Inspectors that the matter was being investigated and enforcement action would be taken to regularise matters. The Council has relied on this site to refuse other permissions for Gypsy sites in this district claiming they have met the need. They have persuaded a local plan inspector that they have made sufficient provision.

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

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

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

There may well be merit in retaining the site for low cost rented accommodation for migrant workers. But if the Council want to rely on this site

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to meet the needs of Gypsy Travellers the applicant should be required to submit a revised plan to show how the site can be laid out to provide

a) Fewer individual residential pitches each with space for 2 caravans (of which one is a mobile

home), individual day rooms and parking for at least 2 vehicles

b) A transit area in association with the large communal building.

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

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

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

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

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

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

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

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

2. This application has been made to regularise the existing situation on this site. As Ms Rouse notes, in her personal statement, over the last 7 years there

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

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

4. According to these submitted plans whole families are expected to live in a small static caravan 32ft x 10ft (9.75m x3.04m) which is less than 30 sq m in floor space. Even by Traveller standards what is proposed are very small for static caravans. The UN advises a minimum floorspace of 20 sq m per person as an indicator of overcrowding. DCLG guidance published March 2015 on Technical Housing Standards-national described space standards advises as follows for single storey dwellings

1 bed 1 person -39 m2

1bed 2 person-50 m2

2 bed 3 person-61m2

2bed 4 person -70 m2

5. What is proposed here falls well short of recognised standards. By contrast, the Amenity Hall granted by Swale Council to meet the needs of Traveller families on this site is quite absurd. This huge structure offers pathetic bathroom facilities for so many families. It does not even include laundry facilities. I am told by Travellers who have visited the owner that it is anything

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but an Amenity Hall and question if it is truly available to site residents. The plans show gates on the path from the site -why? I have no idea which 'good practice' guide this was taken from but it is not on published by DCLG or one I am familiar with.

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

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

8. It is my experience that most Gypsy Travellers in the district (and indeed in Kent) are English Romany. Indeed up until 2005 Kent CC agreed that there were no Irish Travellers on any of the council run sites in Kent. I have seen no evidence that there is demand from Irish Travellers in Kent for this large site. The Irish Travellers currently living on the unauthorised site at Spade Lane who I am representing have no intention or desire to live on a site like this or in this location. The site has unattractive access to local facilities. It is reached down an unlit track from a service station where lorry drivers park up. The Irish

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Travellers at the authorised site at Orchard Park Oak Lane and on the unauthorised plots on Lenham Rd in Headcorn live on a very different sites to what is proposed at Brotherhood Woodyard, with spacious plots, large (usually twin unit) caravans able to accommodate the large families we associate with Irish Travellers, and with their own individual day rooms.

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

Wakefield-38 pitches

Holwell Hatfield -39 pitches

Showell Road Wolverhampton-40 pitches

Thistlebrook Greenwich-40 pitches

Peterborough-40 pitches

Cottingley Springs Leeds-41 pitches

Linehouses Stoke-45 pitches

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

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

11. Not only are the number of pitches unjustified, the layout also fails to comply with published guidance. Contrary to DCLG guidance there are no 'closes' for extended families and little evidence of 'defensible space'. The proposed layout is considered overdeveloped and very cramped. The Council has previously concluded that the consented layout for this site was at the limit of what would be appropriate for this site. This layout seeks to squeeze yet more onto this site. This is unacceptable for the following reasons

i) There is no turning head for large vehicles within the site and at the end of the cul de sac runs and no visitor parking spaces-essential for such a large site. I doubt the internal access roads are at least 3.7m wide and the layout is not conducive to a one way system. DCLG guidance recommends internal access roads of 5.5m wide to allow two vehicles to pass. Most of the 'road' junctions are too angular for ease of vehicles turning. For such a large site

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there should be at least two access points for emergency vehicles. Caravans are sited within 3m of the close boarded perimeter boundaries contrary to DCLG and site licencing guidance. The Fire Authority needs to be consulted to ensure this proposed layout is safe given serious fires on caravan sites. The narrow road width will make it difficult to manoeuvre a static/ touring caravan onto most plots

ii) caravans on plots 3, 15/16 and 32-40 are sited so close to the close boarded boundary fence there will be no outlook for occupants of these caravans. You would not expect those in houses to occupy dwellings with no outlook from habitable room windows.

iii) the static and touring caravans on plots 2 and 3 are within 6m of each other contrary to site licencing and I seriously doubt there is 6m separation between static caravans on the central plots 2-22 but as there is no scale rule on the plan I can not check measurements with any precision.

iv) the proposed day rooms on plot 16-10 and 22-23 are small for what is proposed compared with DCLG guidance for residential plots.

v) There is no privacy for those on the transit site. Families could occupy these plots for periods of up to 2-3 months. There is no private amenities on these pitches contrary to par 8.28 DCLG guidance. DCLG guidance advises that transit pitches have space for two caravans and two vehicles and private amenities. This is not provided. There is barely room for one caravan and one parking space, let alone a works trailer or pickup truck.

vi) It is not clear if the green areas are meant to represent grass but most Travellers want low maintenance plots as they are away travelling during summer months. Landscaping should be in communal areas for ease of management not on individual plots. There is no hard standing / decking shown for sitting out areas with caravans. There is no landscaping to break up the site. The play area is poorly sited in an unsafe location close to the entrance with roads to three sides and no footpath links. Would it not be better to site this next to the Amenity Hall or central in the site with good passive surveillance? Some of the landscaping shown on the previous plan for tree and shrub planting have been removed and there is no reference to the grass buffer zone and 10m woodland strip along the SSE boundary. Is this the same sized site?

vii) it is unclear why there is a need for a separate site office. As I recall the plans approved by Swale Council for what is now aptly referred to as the Amenity Hall included provision for several offices on the first floor.

viii) I can see no provision for foul sewerage. It is not known where any treatment plant is located or what access exists for its maintenance.

ix) I can see no provision for communal bin storage

x) it is not clear how (if at all) plots will be separated/ demarcated from each other to provide privacy and security and how caravans will be manoeuvred onto plots if they are fenced off given the narrowness and constraint of internal access roads.

xi) the proximity and overhang of trees in the surrounding woodland is not indicated.

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

12. As stated previously consented layout was not appropriate for a residential Gypsy Traveller site. It failed to respect the cultural needs of Gypsy Travellers

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

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

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

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

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

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

*I note that consent is now sought for
7 pitches with a static, tourer and day room larger than the static. The day room design looks just
like a twin unit chalet. It is odd to have a day room larger than the main living unit. It is supposed to
be ancillary/ subordinate to the main caravans
6 pitches with a static , tourer and smaller day room
27 pitches with a static, tourer, shed by no utility block*

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7 transit pitches

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

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

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

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

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

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

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

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

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

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

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

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

6.0 CONSULTATIONS**6.01 Dunkirk Parish Council** objects to this application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other considerations:

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

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

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

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

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

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

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

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

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

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

Quote from officer in relation to another site.

The Council is required to objectively assess need within the Borough. It has done so through the GTAA and its subsequent revision. The Council is then

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required to provide a five year supply. The Local Plan Inspector has considered this, and agreed in her interim findings that given the substantial number of pitches granted permanent planning permission since the GTAA was commissioned, and thus the very small remaining need for pitches within the Borough, the provision of such a supply through site allocations is unnecessary and the additional very small number of pitches required to meet the assessed level of need can be achieved through windfall sites. That there are sites with temporary permissions only is not indicative of an increased level of need, it is indicative of demand. The two are quite separate, and the Council is not required, whether in relation to gypsy/traveller pitches, or conventional housing, to meet demand.

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

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

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

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

This time we list the perceived harm:

Difficulties in controlling the site.

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

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

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

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

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

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

. the Parish Council has been concerned that the scheme fails to meet each and every one of the recommendations in the DCLG Good Practice Guide, I can assure you that this advice was accorded great weight, but as the report does highlight it is not expected that every single recommendation will be met on every site. Furthermore, the recommended maximum number

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*of 15 pitches is expressly caveated with the proviso that this figure should only be exceeded where there is a clear preference **from the local gypsy and traveller community**.*

From DM10

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

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

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

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

Friends, Families and Travellers Website quotes Government Policy:

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

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

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

What's changed?

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

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

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

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

This would be a development as large as the proposed 77 or 49 houses at London Road; one has been refused and we await the outcome on the second one. The scale of all of them is out of keeping, in the countryside

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Special Landscape Area (Kent Level) and unsustainable when compared to NPPF.

Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;
Currently, some 30 incidents have been lodged with the environment agency.

Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;
None of these criteria are met by the proposal.

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

Dunkirk Parish Council, unanimously recommend refusal.”

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

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

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

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

Italic text is policy documentation or quotation.

Bearing Fruits 2031 adopted local plan.

Use of Policy ST3 for Gypsy and Traveller provision.

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

Policy ST 3

The Swale settlement strategy

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

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

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

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value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.

Please see NPPF section.

This gives significant weight against the application.

Policy DM 10

Gypsy and Traveller sites

Part A: Retention of sites for Gypsies and Travellers

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

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

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

3. Can achieve an integrated co-existence between all communities;

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

5. Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;

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

7. Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;

8. Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;

"The proposal would not, in my opinion, meet the requirements of Policy DM10".

Policy DM 24

Conserving and enhancing valued landscapes

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

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

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

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

This gives significant weight against the application.

NPPF.

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

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

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

Ministerial Briefings.

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

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

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

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

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

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

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

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

The site location plan does not:

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

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

It is also clear that the site measurements change.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Clearly this is overdevelopment and should be refused.

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

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

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

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

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

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

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

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

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

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

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

SBC housing manager has told us: *'The site has been provided with a draft licence for consultation which we are again chasing. As we are currently*

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looking at this site, but I believe the planning matters need to be resolved first'.

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

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

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

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

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

We still find ourselves defending against yet another retrospective application.

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

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

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

This is a list of harm arising from the application:

1. Siting caravans this closely together puts social pressure on the residents. When people do not have their own space friction will occur.
2. The caravans are too small and without a dayroom would not appeal to any gypsy or traveller family. We submit that if the occupants are G&T they would not have sufficient room for their lifestyle.
3. Sites in rural or semi-rural settings, should not dominate the nearest settled community.

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4. There are insufficient green spaces or play areas; children would be forced to play indoors or on the access roads.
5. There have been arrests on the site and the extremely high density will exacerbate these problems. We believe the arrested people were not gypsies, but of Eastern European origin.
6. Mrs Rouse: This appears to be a proposal which tries to squeeze as many pitches on as possible without any regard to making it a pleasant place for future residents to live on".
7. Due to the intentional unauthorised development the TPO trees already felled cannot be replaced.
8. The harm to flora and fauna within Blean Wood High Landscape Value (Kent Level) is severe and irreversible.

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

This suggests significant weight against the application.

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

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

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

*The balance of whether a communal building was appropriate for 22 pitches was made weighing up the mix of pitch types and the probability that the static mobiles would contain some washing/kitchenette facilities and it is still reasonable to make some of those assumptions about that level of pitch provision; however these assumptions are significant strained when applied to 47 pitches. **It is my opinion that a reliance on a communal building for such a significant number of families would result in demonstrable harm to residential amenity.***

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

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

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

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

DPC would therefore ask that the application is refused.

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

Dunkirk Parish Council continues to object to this application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.08 Kent Police has sent the following comments;

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

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

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

6.09 Kent County Council Public Rights of Way Officer commented;

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

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

6.11 Natural England originally commented;

The above consultation relates to proposals for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure that the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation. Subject to the above, Natural England is happy to

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advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.

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

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

6.12 Kent Wildlife Trust has commented as follows;

Thank you for consulting Kent Wildlife Trust on this application.

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

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

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

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

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

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

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers and correspondence for application 17/502338/FULL

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

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8.01 Issues raised by Dunkirk Parish Council, Kent Wildlife Trust and the planning agent objector include the *following numbered points 1 to 29* which I respond to below. These cover many of the planning issues with the application, which I will appraise below;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The amendments to the application now overcome this initial criticism.

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15. There is only space for mobiles of up to 30sq m which will provide less space than housing standards require

Caravan legislation specifies the size of caravans. This permission will not specify the size of any caravan and there is no reason to suspect that the caravans will be inadequate. In any case seven pitches also have dayrooms and there is a large communal building for other needs.

16. The layout does not show parking spaces

The amended layout scheme shows at least one parking space on each pitch, more on the larger pitches.

17. The layout is unimaginative, cramped and represents overdevelopment of the site

The layout includes a variety of pitch orientation, includes cul-de-sacs as per previous design guidance, and many pitches back onto woodland. A central green amenity area, play area and communal building offer a variety of opportunities for recreation.

18. The layout does not provide individual pitches which count towards the local need

The pitches are clearly identified as self-contained with spaces for caravans, parking, washing and storage. They should all be seen as individual pitches.

19. The site has been extended into nearby woodland

The site layout as proposed does not extend the approved site boundaries in to the woodland. Any clearance of woodland is a separate matter.

20. Is the site the same size?

Yes, the approved site boundaries have not been extended in this application

21. Lack of enforcement action on the site

The Council has responded to local allegations both by way of Planning Contravention Notices in 2016 and more recent investigations. This matter should not affect determination of this application.

22. Cutting down of trees covered by a TPO on the site and nearby

This matter is wholly irrelevant to the merits of this application and should not affect determination of this application.

23. The Council now has the chance to correct previous errors

The 2013 approved scheme has been subject to criticism. Those criticisms often concerned the small size of the single pitches which did not include space for touring caravans. That planning permission was issued before the 2015 re-issue of PPTS which changed the planning definition of gypsies and travellers to exclude those who no longer travel. Previously, even those who had previously travelled would have been included and thus not to have a touring caravan was not critical. This scheme now addresses the new PPTS guidance and provides the opportunity for all occupants of the site to travel and accord with the current PPTS definition. Accordingly, whilst I do not see the 2013 approval as an error, this application allows the site situation to catch up with the changes to PPTS.

24. The Council has a five year supply of sites and this development is unnecessary

Recent planning appeal hearings have heard evidence of an unmet need in Swale for gypsy and traveller pitches despite the Council having approved more pitches than the GTAA revised need figure required. This figure has always been seen as a target

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rather than a ceiling and the simple fact that a figure has been reached does not mean that otherwise acceptable development should be prevented.

25. The Council is not required to meet site demand

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

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

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

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

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

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

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

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

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

Discussion

8.02 This site has full planning permission for 29 permanent gypsy and traveller pitches, but this planning permission has consistently been criticised by those seeking planning permission at appeal for gypsy and traveller sites in less suitable locations. Despite my view that the Council was right to grant planning permission in 2013 the lack of adherence to approved drawings and breaches of condition by the applicant have led some Planning Inspectors to regard the site's contribution to pitch supply with caution, and to other Inspectors essentially disregarding it altogether. This is having serious consequences for the Council's adopted Local Plan strategy of meeting remaining pitch need to 2031 via windfall planning applications rather than by a site allocations DPD.

8.03 The Council has for some time been engaged in enforcement investigations and negotiations with the site owner/applicant in an attempt to secure compliance with the approved site layout, caravan numbers and occupancy. These efforts have so far failed to secure compliance, and I have made it very clear to the applicant that unless he does comply the Council will take formal enforcement action. Some such action regarding occupancy of the caravans, use of the communal building and an extension

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of the site will have been taken by the time of the meeting. This application seeks an alternative planning permission in relation to site layout and overall caravan numbers

- 8.04 This application began essentially as a request to legitimise the unauthorised layout of the site as an alternative to enforcement action. The original application plan showed a poor layout with 47 single pitches, some with caravans too closely spaced to meet site licensing conditions. Discussion with officers focussed on overcoming criticisms of the unauthorised layout of the site (and of the approved site layout) by improving the quality of the development, and retaining the variety of smaller and larger pitches that the 2013 permission achieved. To address recent criticisms of the approved site layout Officers requested the inclusion of day rooms on larger pitches, space for a touring caravan on all pitches to meet the new PPTS definition, adequate parking spaces, and scope to combine single pitches. We sought that all single pitches are of at least approximately 200sq m (up from 150sq m in the 2013 scheme), with amenity buildings. We asked that the approved transit pitches be retained on this accessible and very suitable site, but we made no stipulation about where on the site each type of pitch ought to be positioned.
- 8.05 The scheme was then re-drawn by a local architect showing seven large pitches at the rear of the site, all with dayrooms and space for tourers; retention of transit pitches and play area, as well as some small closes; and smaller pitches of approximately 200sq m with space for touring caravans. This left some issues outstanding, including access to the communal building (blocked by a fence) and lack of detail of dayrooms. These matters have been attended to in the latest version of the proposed site layout drawing. The larger pitches are at the rear of the site; all pitches have parking space and room for a touring caravan; access to the communal building is restored; and the layout is more varied. The dayrooms reflect officer expectations and go some way to addressing previous criticisms of the application, although not all pitches have them – that after all is the role of the communal building which has already been built. Details of the smallest dayrooms on pitches 10 to 14 and the storage sheds remain absent but can be required by condition.
- 8.06 By negotiating with the applicant, I am pleased to see a greatly improved scheme based on a site survey that addresses early criticisms. In my view the scheme has advantages over the 2013 approved layout and I see no reason to oppose a modest increase in pitch numbers as the scheme does not extend the site boundaries.
- 8.07 The application provides a site layout which responds to recent criticism whilst adding a modest number of additional pitches. It does not extend the site boundaries, and where the site has been extended enforcement action is being taken separately. The site is in a suitable and sustainable location and refusal of the application will not mean that its use ceases. Accordingly, I consider that the question marks over the site's contribution to pitch supply should be overcome and the Council's strategy of meeting pitch need by windfall planning applications supported.
- 8.08 Approval of this application will not prejudice the Council in taking action against unauthorised development at the site, but it may set a new benchmark against which that action may be taken. If the currently sought planning permission is granted but not implemented the Council can still take enforcement action against non-compliance with the 2013 approved scheme. To ensure that this matter does not drag on I am recommending that the current scheme, if approved, is commenced within one year so that at this point the Council can act decisively against beaches of either the 2013

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approval or the later planning permission if that has been begun, to ensure compliance with the relevant planning permission in terms of site layout and caravan numbers, amongst other things.

- 8.09 The key test of any planning application is its conformity to the Development Plan, or whether other material considerations indicate a decision other than in such accordance. In this case the relevant Development Plan is Bearing Fruits 2031: The Swale Borough Local Plan 2017. Particularly relevant policies are ST3, DM10, DM24 and DM28.
- 8.10 Policy ST3 (The Swale settlement strategy) seeks to guide development to sustainable locations. In this regard urban centres are preferred with sites in open countryside outside any built-up area and with poorest access to services being least favoured. On this point, the site itself is easily accessible and close to a number of amenities such as the petrol filling station and village hall. It is extremely well placed to provide transit pitches. It has already been found suitable as a gypsy and traveller site and I see no reason to see it differently now.
- 8.11 Policy DM10 of the adopted Local Plan is the key specific policy for this development and is set out at paragraph 4.14 of this report.

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

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

9.0 CONCLUSION

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

10.0 RECOMMENDATION – GRANT Subject to the following conditions:**CONDITIONS**

APPENDIX 1

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

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

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

Reason: For the avoidance of doubt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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post and rail fencing shall be erected on the site's southern, western or eastern perimeters.

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

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

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

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

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

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

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

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

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

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

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

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

Council's approach to this application

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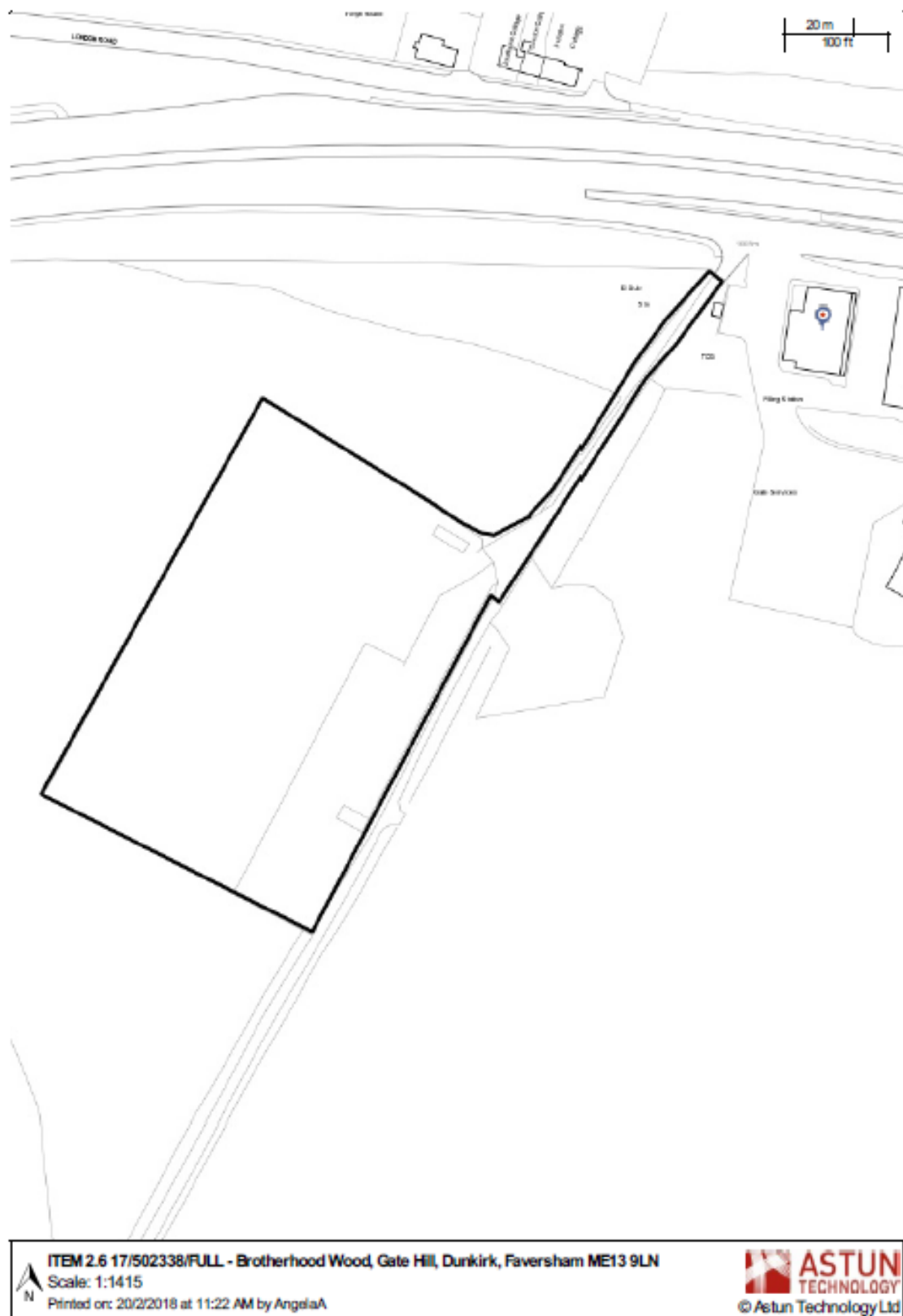
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The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; and seeking to find solutions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

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

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

APPENDIX 1



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Philip Brown
ASSOCIATES LTD
CHARTERED TOWN PLANNERS
& DEVELOPMENT CONSULTANTS

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

21 April 2017

Dear Sirs,

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

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

PLANNING STATEMENT

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

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

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

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ASSOCIATES LTD

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& DEVELOPMENT CONSULTANTS

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

PLANNING CONSIDERATIONS

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

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

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

Philip Brown**ASSOCIATES LTD**CHARTERED TOWN PLANNERS
& DEVELOPMENT CONSULTANTS

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

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

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

Yours faithfully,



PHILIP BROWN BA (HONS) MRTPI

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

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

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

I am a founding member of the Kent Officer Gypsy/Traveller Group and play a key role in the group, under the Chairman. The group meets every three months. Through this group I provide planning policy guidance on Gypsy/Traveller accommodation issues to other less experienced officers around Kent.

I am also part of a discreet group of local authority officers set up and run by DCLG to review the implementation and effectiveness of Gypsy & Traveller national policy; including discussions around replacing the revoked design guidance and incorporating any future policy into the NPPF review.

2. Planning History of the Site

The site was previously a commercial woodyard and is located at the top of Gate Hill along the A2 and accessed behind the Gate Service Station. The nearest settlement is Dunkirk village located 1km (approx.) to the west of the site.

Planning permission was granted in 2010, under SW/10/1362, for use of the site as a Gypsy & Traveller site including 2 single pitches and 1 double pitch, these included space for a mobile home, an additional caravan such as tourer, a utility/dayroom, storage shed and parking space.

Consent was granted the following year (2011), under SW/11/1271, for a further 7 single pitches and 2 transit pitches. In combination these two consents (SW/10/1362 & SW/11/1271) permitted the permanent siting of a maximum of 21 caravans of which 11 can be a mobile home/static caravan, plus up to 5 caravans across the two transit pitches.

The most relevant planning permission for the site now was that granted under SW/13/0137. This is the permission regularly referred to by appellants and third parties when discussing other sites around the borough or supply of pitches.

Planning permission SW/13/0137 was a proposal to

- Retain the two transit pitches (maximum of 6 caravans split across the two pitches)
- Reduce the number of pitches which consisted of a mobile/static, another caravan, amenity building, storage shed and parking space, referred to as family pitches on the application, to 7 pitches

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- Increase the total number of pitches available at the site with an additional 22 pitches and a communal amenity building. The associated layout plan showed of the 22 pitches that 5 had the flexibility and capacity to be double, or triple, pitches for extended family occupation.

The additional 22 individual pitches did not contain an amenity/dayroom building. The pitches with the potential to be double pitches consist of space for 2 mobiles/statics or other caravan such as tourers, storage shed, an area for amenity/clothes drying and two parking spaces.

The 22 individual pitches are of a smaller size than the family or transit pitches. They are 15m x 10m in size and contain one mobile/static, storage shed, an area for amenity/clothes drying and a parking space. Many of the small size pitches have caravans provided by the site owner, whom confirmed in the accompanying planning statement, that the caravans provided have the facilities for cooking, washing and basic hygiene.

The consent allowed 29 permanent pitches (7 family pitches, 22 smaller size pitches - 5 of which have flexibility and capacity to be double pitches) for a stationing of a maximum of 36 caravans and 2 transit pitches (for up to 6 caravans).

The consent also allowed a communal amenity building (the positioning of this within the site has been changed via an agreed minor amendment). The amenity building contains male/female and disabled toilet and shower facilities, a kitchen and recreational rooms for games, teaching, and prayer and group activities. The consent therefore contained a mixture and choice of pitch type/size as well as much needed transit provision.

3. Layout

The approved layout reflected the now revoked Design Guidance (2008), although it did not strictly adhere to it. Most notably with the use of the communal amenity building for the smaller pitches rather than individual dayrooms as advised by the design guidance. The Council considers it was entirely appropriate to grant the consented layout and communal amenity building which respected but did not stringently follow the design guidance.

The guidance is primarily intended to cover social site provision for Gypsies and Irish Travellers and was particularly relevant to local authorities and registered social landlords wishing to bid for Government grants, therefore was in parts onerous in its guidelines when applied to private site provision.

This guidance (para 1.7) makes clear that there is no single, appropriate design for sites, any more than there is for general housing development and (para 1.12) recognised that it will not be possible to meet all aspects of this guidance in every respect on every site.

The critical part of the guidance (para 1.13) makes the important point that where site provision is private and comes directly from the Gypsy/Traveller community that they are best placed to shape the design and features of the site.

Paragraph 1.13

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The current application (17/502338/FULL) changes this balance and, in my opinion, reduces the variety of accommodation on the site to a point where the reliance on the communal building for all pitches dayroom needs would become untenable. The current application retains the larger pitches alongside the communal building, inhabited by the site owner and family. The transit pitches along the front boundary are relocated to a central point and the front boundary area replaced with 9 small size single pitches. The other family pitches are replaced with smaller size single pitches. All the other consented pitches are replaced with smaller size single pitches and reconfigured from the closes design with an overall total of 47 pitches in a liner design with fairly harsh fencing boundary treatments.

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

The layout changes the site to 47 smaller size pitches, containing one static mobile, parking space for a tourer and car. The amenity space also seems smaller than the consented layout. All of these 47 pitches would be reliant on the single communal amenity building rather than the 22 consented pitches. The amenity building's washings and cooking facilities would be insufficient to cope with 47 families using them which result in sufficient harm to residential amenity. Nor does the suggested layout show easy access to the amenity building with fencing blocking the most direct route for the vast majority of pitches. The balance of whether a communal building was appropriate for 22 pitches was made weighing up the mix of pitch types and the probability that the static mobiles would contain some washing/kitchenette facilities and it is still reasonable to make some of those assumptions about that level of pitch provision; however these assumptions are significant strained when applied to 47 pitches. It is my opinion that a reliance on a communal building for such a significant number of families would result in demonstrable harm to residential amenity.

In my opinion, the more linear layout coupled with the intensification of small size pitches creates a site which would not foster a sense of community which is much needed on large sites. The over development of the site and the harsh boundary treatments would be significantly harmful to proposed residents amenity. This appears to be a proposal which tries to squeeze as many pitches on as possible without any regard to making it a pleasant place for future residents to live on.

4. Planning Policy

Relevant planning policy is

- The NPPF
- The PPTS (2015)
- The adopted Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies DM10, DM24, DM28.

The NPPF

The development would not meet the requirements of the NPPF [para 7, para 17 Core Planning Principles 4&5] by virtue of the harm to the character of the area through the intensification of

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"In the case of small private site development there will be similarities but it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and may contain elements which are not appropriate or popular for wider application in respect of social provision. It would not therefore be appropriate to use this good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission."

The guidance further more states that *"Sites of various sizes, layouts and pitch numbers operate successfully today and work best when they take account of the size of the site and the needs and demographics of the families resident on them."*

"Paragraph 7.9 There is no one-size-fits-all measurement of a pitch as, in the case of the settled community, this depends on the size of individual families and their particular needs."

The permitting of a choice of pitch types, including smaller pitches than previously seen elsewhere was therefore regarded as acceptable and in accordance with the design guidance.

Most the objections seen in the Local Plan process relate to the use of the communal building for 22 pitches instead of individual dayrooms. Again the Council considers it was entirely appropriate to grant permission for the consented layout. The design guidance in Appendix B shows a large site layout and shows the amenity buildings as semidetached very small buildings containing either a bathroom and storage cupboards or a shower room and kitchenette. So it can be said that the guidance itself does not show large amenity buildings for each pitch as appropriate. The majority of modern day mobile units contain kitchenette areas and frequently include bathrooms. The large amenity building provides for bathroom and shower facilities for each of the 22 smaller pitches. Therefore the absence of a small amenity building (as shown in the guidance appendix B) containing shower room and kitchenette cannot be said to significantly harm the residential amenity of the occupants as these facilities are provided within the mobile units or the large communal amenity building.

One of the most important features of the consented layout is the inclusion of small closes and groupings of pitches off a main route into the site. Importantly this approach is advocated in the design guidance; (para 4.8) states

"Sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community. Nevertheless, where a larger site is unavoidable, or where one exists already, in a few cases smaller 'closes' have been created within the site for extended families, thereby retaining the sense of community and creating defensible space."

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

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development, harm to the surrounding local wildlife site and the harm caused to residential amenity.

The PPTS

Para 4 bullet point k. for local planning authorities to have due regard to the protection of local amenity and local environment.

Para 13. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally.

The proposal does not, in my opinion, meet either of these requirements.

Policy DM 10

Gypsy and Traveller sites

Part A: Retention of sites for Gypsies and Travellers

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

Part B: Gypsy and Traveller sites

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

1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:
 - a. there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or
 - b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or
 - c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.
2. Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);
3. Can achieve an integrated co-existence between all communities;
4. Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or **causes significant harm to the character of an area**, its landscape, or the capacity of local services;
5. Can, where appropriate, accommodate living and working in the same location, either through a mixed use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;
6. Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;
7. Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;
8. Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;
9. Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;
10. Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;

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11. Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and
12. Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.

The proposal would not, in my opinion, meet the requirements of Policy DM10. Criterion 3 achieving integrated co-existence would be difficult to achieve with the over intensive development of pitches and the linear layout. By diminishing of the choice of pitch sizes and types this would affect the co-existence of residents on the site. The proposed intensification and layout would cause significant harm to residential amenity therefore failing to meet criterion 6.

Criteria 4 and 7 primarily protect the natural environment and the proposal would not meet their requirements. The site is surrounded by the Blean Woods South Local Wildlife Site which covers some 329 hectares of mixed native deciduous woodland, conifer and sweet chestnut plantations, as well as bog and heath. Grazing animals are used in the bog and heath areas and a coppice management programme has been restored. This benefits a variety of species such as nightjar, nightingale, lesser-spotted woodpecker and buzzard. There has previously been unauthorised felling of this ancient woodland by the applicant and this has occurred again in September 2017 during the consideration period for this application. Whilst the felling and destruction of TPO'd trees has occurred outside the application boundary it does highlight the delicate balance the consented layout had with the surrounding woodland. The proposed layout here, whilst still within the site confines, would due to the over intensive nature cause harm to the setting and features of the immediately adjacent wildlife site.

Criterion 8 would not be met by the significant volume of boundary treatments between the individual pitches and the fencing around the communal amenity building.

The development would not meet the requirements of Policy DM10.

5. Five year supply

The Council can demonstrate a five year supply of pitches. It is worth noting that the pitches consented in SW/13/1037 are considered implemented (albeit not in the correct layout) and occupied so therefore have already been counted towards meeting the overall need and supply calculations. Any contribution to further supply would be limited to the modest increase in pitches this application proposes. In light of the fact the Council can demonstrate a five year it is considered that any extra pitches this revised layout produces are not currently required.

6. Other matters

On the 31st August 2015 a planning policy statement was issued by DCLG. This statement signalled the Government's intention to issue a written ministerial statement on development undertaken intentionally without planning consent.

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The planning policy statement read thus;

"The government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.

For these reasons, this statement introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals."

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

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

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

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

26 April 2018

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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) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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- Deferred Items
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DEFERRED ITEMS

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PART 1

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PART 2

2.1 Pg 131 - 138	18/500656/FULL	SITTINGBOURNE	141 Ufton Lane
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2.2 Pg 139 - 153	17/506151/FULL	FAVERSHAM	Leaveland Corner
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PLANNING COMMITTEE – 26 April 2018

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

1.1 REFERENCE NO - 16/506181/FULL and 16/506182/LBC		
APPLICATION PROPOSAL Demolition of the 1960s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings. Construction of 33no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.		
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS		
RECOMMENDATION that planning permission and listed building consent be GRANTED, subject to the satisfactory signing of a suitably worded S106 Agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposals would secure the future of a dilapidated listed building and this would outweigh the limited impact on its setting through the development of new residential buildings within the grounds. The site is located within a sustainable location and has been designed to relate well to the site and its surroundings. The impact on protected trees is acceptable as is the risk posed from flooding. The impact on residential amenity and highway safety and convenience are acceptable. The scheme provides some financial contributions towards local infrastructure, but not the full amount – however a viability appraisal has been submitted and independently reviewed, and this sets out that no contributions would be viable, therefore the applicant is providing a greater sum than is shown to be viable. The failure to make full provision for local infrastructure contributions does not outweigh the benefits of the scheme.		
REASON FOR REFERRAL TO COMMITTEE The applications were approved by Members at the Planning Committee meeting on 29 March 2018, but the resolution included reference to the inclusion of the 90:10 split of affordable housing. The application is being reported back to Committee so that Members can reach a new resolution for the applications which does not refer to the provision of affordable housing		
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP
DECISION DUE DATE 15/11/16	PUBLICITY EXPIRY DATE 08/08/17	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): Please see original committee report appended.		

Observations

As set out above, Members resolved at the Planning Committee on 29th March 2018 that the applications be approved “ [for 16/506181/FULL] *subject to conditions (1) to (37) in the report, the signing of a legal agreement to secure the financial contributions as set out in Paragraph 1.04 of the report, with the inclusion of the 90:10 split of affordable housing.*

Resolved: That application 16/506182/LBC be approved subject to conditions (1) to (6) in the report.”

The Committee reports – with the previous reports to the meeting on 4th January 2018 attached – and the minute of the meeting on 4th January are appended.

The reason for reporting the applications back to Committee is that the resolution for the planning application (reference 16/506181/FULL) contains an erroneous reference to “*affordable housing with a 90-10 tenure split*”.

As set out at paragraph 6.05 of the original Committee report, “*The Council’s Strategic Housing and Health Manager confirm 0% affordable housing provision would be in accordance with the Council’s local plan policy (DM8).*” As Members will be aware, Policy DM8 sets out that for developments of 11 dwellings or more, “*...provision will be made for affordable housing as follows...Isle of Sheppey – 0% affordable housing*”. In line with this, the application does not include provision for affordable housing as there is no justification for seeking it.

Nevertheless, during the discussion about the application at the meeting on 29th March, Members raised the issue of securing a 90:10 split of affordable housing split, and officers did not correct this. The resolution therefore for the planning application included a requirement that it be incorporated in the approval.

This report seeks to address this error, by resolving to approve the planning application as follows:

That Planning permission (16/506181/FULL) be **Granted**, subject to the satisfactory signing of a legal agreement to secure the financial contributions as set out in paragraph 1.04 of the report to Planning Committee on 29th March 2018 (and which is appended to this report), and subject to the following conditions.

Conditions:

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

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

- 2) No development beyond the construction of foundations shall take place until the following details have been submitted to, and approved in writing by the Local Planning Authority:
 - (i) A sample panel of the render(s) to be used (in its proposed colour finish, or relevant through-coloured form) on the north and south courtyard buildings;

- (ii) A sample of the natural slate(s) and any associated ridge and hip tiles to be used on the new buildings, and sample of the natural slate(s), any associated ridge and hip tiles to be used on the existing listed building
- (iii) A sample of the weatherboarding to be used (in its proposed colour finish) on the new carriage house building; and
- (iv) A sample panel of any replacement stucco to be used (in its proposed colour finish) on the listed building.

Reason : In the interests of visual amenity and to preserve the significance of the listed building.

- 3) The development shall be carried out in accordance with the following approved plans: 15072 S101, P201B, P202C, P210A, P211A, P212, P213, P214B, P215A, P216A, P217C, P218, P220.

Reason: In the interests of proper planning.

- 4) No development shall commence until an Arboricultural Impact Assessment and Method Statement (to take into account the revised layout) has been submitted to and approved in writing by the Local Planning Authority. The statement shall include measures to protect existing trees to be retained on site and measures to deal with contamination within the root protection area of retained trees. The development shall be carried out in accordance with the approved details, and the approved tree protection measures shall be fully installed prior to the commencement of any development on the site, and retained on site for the duration of the construction.

Reason: To protect important trees on site, in the interests of visual amenity.

- 5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- 6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 7) Prior to the commencement of development, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 8) Prior to the first occupation of the development, details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i. a timetable for its implementation, and
 - ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 9) Prior to the commencement of development, details of the means of foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

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

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

- 11) 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 and encouraging wildlife and biodiversity.

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

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

- 13) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:

1) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

2) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 1. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure contaminated land is dealt with appropriately.

- 14) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) a programme for the suppression of dust during any demolition works and construction of the development
 - (ii) The areas to be used for the storage of plant and materials on site;
 - (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (iv) Measures to guard against the deposit of mud and similar substances on the public highway

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

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- 15) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- 16) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 17) No development beyond the construction of foundations shall take place until a scheme for the provision of a toddler play area within the site, together with a

scheme for the long term management and maintenance of the play area, has been submitted to and approved in writing by the Local Planning Authority. The play area shall be installed on site prior to first occupation of any part of the development, and retained thereafter in accordance with the approved details.

Reason: To ensure that the development provides sufficient facilities for children.

- 18) No development beyond the construction of foundations shall take place until a management plan for the communal areas within the site has been submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of responsibilities for management, and measures for the long term management and maintenance of the areas. The development and maintenance of the land shall be carried out in accordance with the approved details.

Reason: To ensure that the communal areas are properly managed and maintained.

- 19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- 20) Prior to the occupation of any dwelling, measures to provide a secure pedestrian gated entrance to the south east corner of the site, and to secure the cycle storage area as shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage area and approved security measures shall be provided prior to the occupation of any dwelling.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- 21) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 22) The finished floor levels for the Northern and Southern Courtyard buildings and for plot 2 within the Carriage House building shall be no lower than 3.80mAOD.

Reason: To minimise risk of internal flooding.

- 23) Prior to the first occupation of plots 23, 29 and 31, details of privacy screens to be erected to the balconies to minimise overlooking into the residential development to the south of the site shall be submitted to and approved in writing by the Local

Planning Authority, and installed in accordance with the approved details. The screens shall thereafter be retained as approved.

Reason: To protect neighbouring amenities.

- 24) The development shall proceed in accordance with the reptile measures detailed within the EAD ecology letter dated 14th September 2016.

Reason: To ensure ecological matters are dealt with appropriately.

- 25) No development shall take place (including demolition) until a detailed Construction Ecological Management Plan for the removal of the trees and the demolition of the 1960s north and south wing extensions has been submitted to and approved in writing by the Local Planning Authority. The content of the Construction Ecological Management Plan shall include the:
- a) Purpose and objectives for the proposed works;
 - b) Working method necessary to achieve stated objectives;
 - c) Timings of works to ensure minimal disturbance to protected species;
 - d) Provision for bat 'rescue' if animals are encountered;
 - e) Provisions for reptile 'rescue' if animals are encountered;
 - f) Extent and location of proposed works shown on appropriate scale plans;
 - g) Persons responsible for implementing works.

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

Reason: To ensure ecological matters are dealt with appropriately.

- 26) Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on the site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures including all species outlined in the Ecological Appraisal.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure ecological matters are dealt with appropriately.

- 27) No development beyond the construction of foundations shall take place until details of the location and design of the following ecological enhancement measures have been submitted to and approved in writing by the Local Planning Authority:
- 1. 15 x Schwegler Type 1A swift box;

2. 5 x Schwegler Type 1B nest box;
3. 15 x 1B stock Type B;
4. 1 permanent barn owl box.
5. Full details of the wildlife pond as shown on the site plan, including sections of the pond.
6. A basking bank for reptiles;
7. Hibernacula for amphibians.

The development shall be carried out in accordance with the approved details prior to first occupation of any unit.

Reason: To ensure ecological enhancements are secured.

- 28) Prior to the commencement of development details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To secure high quality communications infrastructure.

- 29) Notwithstanding the details shown on drawing no. P217 Rev. C, the piers dividing the parking bays shall be provided with angled straight or curved brackets close to their junction with the underside of the opening in accordance with a revised 1:25 part elevation and associated 1:1 or 1:2 plan section of the pier and bracket, that shall first have been submitted to and approved in writing by the LPA before any development beyond the construction of foundations.

Reason: In the interests of visual amenity and to preserve the setting of the listed building

- 30) Before any of the new residential units permitted are occupied, details of a scheme of heritage interpretation for the listed building, including details of the information to be provided, design of interpretation boards, siting, and measures to view the listed building (together with maintenance & management of the interpretation facility) shall be submitted to, approved in writing by the Local Planning Authority, and implemented in accordance with the details approved in relation to this condition. Thereafter the scheme shall be retained and maintained in accordance with the approved.

Reason: To enhance the significance of the listed building.

- 31) All windows and external doors shall be of timber construction and retained/maintained in timber thereafter.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 32) Before any development commences, 1:10 elevation details and 1:1 or 1:2 vertical and plan sections of each new/replacement window and door type to be used shall be submitted to and approved in writing by the Local Planning Authority. The sections to be provided shall show details of the head, jamb, cill/sub cill, glazing bar

detailing, glazing section, timber or putty beading detailing, any trickle vent detailing, and in the case of external doors, framing, fanlight detailing, panelling, viewing window detailing, and detailing for any weatherboards to be used.

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

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 33) Before any development commences, a colour scheme for all external joinery for the new and existing buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the colour scheme shall thereafter be retained and maintained in accordance with the details approved in relation to this condition.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 34) Upon completion, no further development, whether permitted by Classes A, B, C, D, E, F, G and H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 35) No satellite dishes or solar panels shall be erected or installed on any building.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 36) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site, other than those expressly approved under this planning permission.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 37) None of the residential units in the new buildings shall be occupied until (a) the works to the listed building have been carried out and completed in accordance with the approved drawings, and (b) the repair and reinstatement works to the curtilage listed boundary walls have been completed in accordance with the details approved under condition 5 of the corresponding listed building consent, unless agreed otherwise in writing by the Local Planning Authority

Reason: In the interests of visual amenity and to preserve the setting of the listed building.



APPENDIX A

Planning Committee Report - 29 March 2018

DEF ITEM 1

Def item 1 REFERENCE NO - 16/506181/FULL and 16/506182/LBC		
APPLICATION PROPOSAL Demolition of the 1960s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings. Construction of 33no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.		
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS		
RECOMMENDATION that planning permission and listed building consent be GRANTED, subject to the satisfactory signing of a suitably worded S106 Agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposals would secure the future of a dilapidated listed building and this would outweigh the limited impact on its setting through the development of new residential buildings within the grounds. The site is located within a sustainable location and has been designed to relate well to the site and its surroundings. The impact on protected trees is acceptable as is the risk posed from flooding. The impact on residential amenity and highway safety and convenience are acceptable. The scheme provides some financial contributions towards local infrastructure, but not the full amount – however a viability appraisal has been submitted and independently reviewed, and this sets out that no contributions would be viable, therefore the applicant is providing a greater sum than is shown to be viable. The failure to make full provision for local infrastructure contributions does not outweigh the benefits of the scheme.		
REASON FOR REFERRAL TO COMMITTEE The applications were deferred by Members at the Planning Committee meeting on 4 th January 2018. Members requested that officers negotiated with the applicant to provide the financial contributions normally required for such a scheme (see Paragraph 8.30 of the appended report).		
WARD Queenborough And Halfway	PARISH/TOWN COUNCIL	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP
DECISION DUE DATE 15/11/16	PUBLICITY EXPIRY DATE 08/08/17	OFFICER SITE VISIT DATE
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): Please see original committee report attached as Appendix 1.		

MAIN REPORT**1.0 Appraisal**

- 1.01 Members will recall that these applications were reported to the Planning Committee on the 4th January 2018. The report to that meeting is attached as Appendix 1. The viability assessment by CBRE (the Council's consultant) that was provided to Members at the January meeting is attached under Part 6.
- 1.02 At the January meeting, the application was deferred to allow officers to go back to the developers to argue the Planning Committee's case with regard to securing developer contributions, as set out at Paragraph 8.30 of the Committee report.

APPENDIX A

Planning Committee Report - 29 March 2018

DEF ITEM 1

- 1.03 Members should note that the contributions set out in paragraph 8.30 amount to a total of £141,102.24 – and this is the figure referred to in the CBRE report. This figure has subsequently been amended, in part because the contributions towards the SAMMS mitigation strategy has increased to £281 per dwelling, and also because the above figure incorrectly included a sum of £10,000 in the CBRE report towards provision of play equipment – when this is in fact being provided on site (see condition 17). The revised contributions required amount to £133,341.62 in total. For the benefit of Members, these are broken down as follows –

£78,114.00	towards Halfway primary school expansion.
£1872.62	towards additional library book stock
£33,696.00	towards expanding existing NHS facilities
£8,700.00	for communal bin storage facilities within the development
£10,959	towards the SAMMS strategy

£133,341.62 Total

- 1.04 Officers have now met with the applicant and agent to discuss the concerns raised by Members at the January meeting. Following this meeting, the applicant has confirmed that they would be prepared to meet the SAMMS strategy payment in full (this is non-negotiable and was already agreed with the applicant) and to pay 50% of the remaining developer contributions required. This would amount to a total payment of £72,150.31
- 1.05 This offer is made notwithstanding the applicant's firm view that the development cannot support any financial contributions based on their own viability appraisal and the appraisal undertaken for the Council by CBRE, which reached the same conclusion. The applicant has offered this sum as they would prefer to resolve this matter with the Council. However they have also made clear that they will not negotiate further, and will take the applications to appeal in the event that this is not acceptable to the Council.
- 1.06 Officers have not tested this through a further viability appraisal as, there would be no benefit in doing so – the CBRE report for the Council has already concluded that the development cannot support any contributions. This additional development cost will essentially be deducted from the overall developer profit from this scheme.
- 1.07 I appreciate that some Members will be reluctant to grant planning permission for a scheme that does not make the full contribution to infrastructure and services as normally required. However two viability appraisals from the applicant and the Council's consultant support this case. If the applications were subsequently the subject of an appeal, it is considered that the Council's ability to defend its position based on the conclusions of these two viability appraisals would be limited with little chance of success. This would also make the Council vulnerable to costs. . In addition, it is likely that the amount now being offered by the applicant would be withdrawn at the appeal stage. It is also worth noting that going through the appeal process would delay the delivery of this development, which would provide much-needed housing and the restoration of an important heritage asset. On this basis, I consider it would be in the best interests of the Council to accept the revised contribution on offer – and that Members should consider this as a positive outcome, as their input has resulted in an additional contribution of £61,191.31 being made to support services and infrastructure.

APPENDIX A

Planning Committee Report - 29 March 2018

DEF ITEM 1

1.08 In terms of how the contribution would be split I would recommend that other than the SAMMS payment (100%), each service / facility identified in paragraph 1.03 above should receive 50% of the stated figure, and this will be set out as such in the S106 agreement.

1.09 Members should also note that the description of the development in the January committee report, and as referred to in paragraph 2.01 of the same report, incorrectly stated that 40 residential units in total would be provided. This should have read 39 units in total. This was explained to Members verbally at the January meeting, but for completeness is corrected here, and in the description of the proposal above.

2.0 RECOMMENDATION

A) That Planning permission (16/506181/FULL) be Granted, subject to the satisfactory signing of a legal agreement to secure the financial contributions as set out in paragraph 1.04 above, and 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.

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

2) No development beyond the construction of foundations shall take place until the following details have been submitted to, and approved in writing by the Local Planning Authority:

- (i) A sample panel of the render(s) to be used (in its proposed colour finish, or relevant through-coloured form) on the north and south courtyard buildings;
- (ii) A sample of the natural slate(s) and any associated ridge and hip tiles to be used on the new buildings, and sample of the natural slate(s), any associated ridge and hip tiles to be used on the existing listed building
- (iii) A sample of the weatherboarding to be used (in its proposed colour finish) on the new carriage house building; and
- (iv) A sample panel of any replacement stucco to be used (in its proposed colour finish) on the listed building.

Reason : In the interests of visual amenity and to preserve the significance of the listed building.

3) The development shall be carried out in accordance with the following approved plans: 15072 S101, P201B, P202C, P210A, P211A, P212, P213, P214B, P215A, P216A, P217C, P218, P220.

Reason: In the interests of proper planning.

4) No development shall commence until an Arboricultural Impact Assessment and Method Statement (to take into account the revised layout) has been submitted to and approved in writing by the Local Planning Authority. The statement shall include measures to protect existing trees to be retained on site and measures to deal with contamination within the root protection area of retained trees. The development shall be carried out in accordance with the approved details, and the approved tree

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protection measures shall be fully installed prior to the commencement of any development on the site, and retained on site for the duration of the construction.

Reason: To protect important trees on site, in the interests of visual amenity.

- 5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- 6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 7) Prior to the commencement of development, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 8) Prior to the first occupation of the development, details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i. a timetable for its implementation, and
 - ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 9) Prior to the commencement of development, details of the means of foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

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

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

- 11) 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 and encouraging wildlife and biodiversity.

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

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

- 13) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
- 1) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - 2) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 1. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure contaminated land is dealt with appropriately.

- 14) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction

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period. This shall include details relating to:

- (i) a programme for the suppression of dust during any demolition works and construction of the development
- (ii) The areas to be used for the storage of plant and materials on site;
- (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
- (iv) Measures to guard against the deposit of mud and similar substances on the public highway

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

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- 15) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- 16) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 17) No development beyond the construction of foundations shall take place until a scheme for the provision of a toddler play area within the site, together with a scheme for the long term management and maintenance of the play area, has been submitted to and approved in writing by the Local Planning Authority. The play area shall be installed on site prior to first occupation of any part of the development, and retained thereafter in accordance with the approved details.

Reason: To ensure that the development provides sufficient facilities for children.

- 18) No development beyond the construction of foundations shall take place until a management plan for the communal areas within the site has been submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of responsibilities for management, and measures for the long term management and maintenance of the areas. The development and maintenance of the land shall be carried out in accordance with the approved details.

Reason: To ensure that the communal areas are properly managed and maintained.

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- 19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- 20) Prior to the occupation of any dwelling, measures to provide a secure pedestrian gated entrance to the south east corner of the site, and to secure the cycle storage area as shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage area and approved security measures shall be provided prior to the occupation of any dwelling.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- 21) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 22) The finished floor levels for the Northern and Southern Courtyard buildings and for plot 2 within the Carriage House building shall be no lower than 3.80mAOD.

Reason: To minimise risk of internal flooding.

- 23) Prior to the first occupation of plots 23, 29 and 31, details of privacy screens to be erected to the balconies to minimise overlooking into the residential development to the south of the site shall be submitted to and approved in writing by the Local Planning Authority, and installed in accordance with the approved details. The screens shall thereafter be retained as approved.

Reason: To protect neighbouring amenities.

- 24) The development shall proceed in accordance with the reptile measures detailed within the EAD ecology letter dated 14th September 2016.

Reason: To ensure ecological matters are dealt with appropriately.

- 25) No development shall take place (including demolition) until a detailed Construction Ecological Management Plan for the removal of the trees and the demolition of the 1960s north and south wing extensions has been submitted to and approved in writing by the Local Planning Authority. The content of the Construction Ecological Management Plan shall include the:

- a) Purpose and objectives for the proposed works;

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- b) Working method necessary to achieve stated objectives;
- c) Timings of works to ensure minimal disturbance to protected species;
- d) Provision for bat 'rescue' if animals are encountered;
- e) Provisions for reptile 'rescue' if animals are encountered;
- f) Extent and location of proposed works shown on appropriate scale plans;
- g) Persons responsible for implementing works.

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

Reason: To ensure ecological matters are dealt with appropriately.

- 26) Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on the site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures including all species outlined in the Ecological Appraisal.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure ecological matters are dealt with appropriately.

- 27) No development beyond the construction of foundations shall take place until details of the location and design of the following ecological enhancement measures have been submitted to and approved in writing by the Local Planning Authority:
1. 15 x Schwegler Type 1A swift box;
 2. 5 x Schwegler Type 1B nest box;
 3. 15 x 1B stock Type B;
 4. 1 permanent barn owl box.
 5. Full details of the wildlife pond as shown on the site plan, including sections of the pond.
 6. A basking bank for reptiles;
 7. Hibernacula for amphibians.

The development shall be carried out in accordance with the approved details prior to first occupation of any unit.

Reason: To ensure ecological enhancements are secured.

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- 28) Prior to the commencement of development details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To secure high quality communications infrastructure.

- 29) Notwithstanding the details shown on drawing no. P217 Rev. C, the piers dividing the parking bays shall be provided with angled straight or curved brackets close to their junction with the underside of the opening in accordance with a revised 1:25 part elevation and associated 1:1 or 1:2 plan section of the pier and bracket, that shall first have been submitted to and approved in writing by the LPA before any development beyond the construction of foundations.

Reason: In the interests of visual amenity and to preserve the setting of the listed building

- 30) Before any of the new residential units permitted are occupied, details of a scheme of heritage interpretation for the listed building, including details of the information to be provided, design of interpretation boards, siting, and measures to view the listed building (together with maintenance & management of the interpretation facility) shall be submitted to, approved in writing by the Local Planning Authority, and implemented in accordance with the details approved in relation to this condition. Thereafter the scheme shall be retained and maintained in accordance with the approved.

Reason: To enhance the significance of the listed building.

- 31) All windows and external doors shall be of timber construction and retained/maintained in timber thereafter.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 32) Before any development commences, 1:10 elevation details and 1:1 or 1:2 vertical and plan sections of each new/replacement window and door type to be used shall be submitted to and approved in writing by the Local Planning Authority. The sections to be provided shall show details of the head, jamb, cill/sub cill, glazing bar detailing, glazing section, timber or putty beading detailing, any trickle vent detailing, and in the case of external doors, framing, fanlight detailing, panelling, viewing window detailing, and detailing for any weatherboards to be used.

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

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 33) Before any development commences, a colour scheme for all external joinery for the new and existing buildings shall be submitted to and approved in writing by the Local

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Planning Authority. The development shall be carried out in accordance with the approved details and the colour scheme shall thereafter be retained and maintained in accordance with the details approved in relation to this condition.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 34) Upon completion, no further development, whether permitted by Classes A, B, C, D, E, F, G and H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 35) No satellite dishes or solar panels shall be erected or installed on any building.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 36) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site, other than those expressly approved under this planning permission.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 37) None of the residential units in the new buildings shall be occupied until (a) the works to the listed building have been carried out and completed in accordance with the approved drawings, and (b) the repair and reinstatement works to the curtilage listed boundary walls have been completed in accordance with the details approved under condition 5 of the corresponding listed building consent, unless agreed otherwise in writing by the Local Planning Authority

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

INFORMATIVES

- 1) Southern Water requests that the applicant contacts it to discuss the requirement for a formal application to; abandon a public sewer; provide foul and surface water drainage; and provide a water supply on 0330 303 0119. Should a sewer be found during construction the developer should contact Southern Water to discuss its requirements.
- 2) You are advised that adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.
Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

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- 3) (In relation to condition 30, you are recommended that the scheme should include the provision of two equally sized lava stone colour interpretation panels set flush into the brickwork either side of the viewing window. The text and illustrations to be shown on the panels is required to be provided as part of the submission of details for condition 6). The LPA also recommends the creation of a rectangular opening in the brickwork of the front boundary wall, which would be edged in a brick quoin detail to provide a well-presented modern intervention to the curtilage listed wall, and that the opening would be large enough to allow two persons to view the listed building in its new landscaped setting at the same time, but provided with painted (vertical) steel bars along its length to prevent possible unauthorised entry through the opening).

The Council's approach to this application:

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

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

In this instance:

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

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

B) That Listed Building Consent (Ref: 16/506182/LBC) be granted, subject to the following conditions

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

Reason: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Prior to any commencement, a detailed schedule of works for the conversion and extension of the listed building shall be submitted to and approved in writing by the Local Planning Authority. The schedule of works shall include a method statement detailing how the listed building will be protected from potential damage during the course of the demolition works to the attached modern extension. The works shall be carried out in accordance with the approved details.

Reason: To preserve and enhance the significance of the listed building.

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- 3) Unless otherwise agreed in writing, no works shall take place to the listed building until the modern extension has been demolished in accordance with the method statement approved in relation to condition 2 of this consent.

Reason: To preserve and enhance the significance of the listed building.

- 4) The relocation of the curtilage listed carriage house building shall be carried out in accordance with a detailed schedule of works which shall have been submitted to and approved in writing by the LPA before any works commence. The schedule of works shall include a method statement detailing how (a) the partial demolition of the modern additions to the building will be demolished without harming the historic fabric, and (b) how the building will be practically relocated from its present to its proposed site.

Reason: To preserve and enhance the significance of the listed building.

- 5) Prior to the commencement of any works, a detailed schedule of repair and reinstatement works to the curtilage listed boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to any occupation of the listed building.

Reason: To preserve and enhance the significance of the listed building.

- 6) All works to the listed building and curtilage listed building and walls shall be carried out using matching materials and finishes, except as otherwise agreed in the required schedule of works detailed in the above stated conditions.

Reason: To preserve and enhance the significance of the listed building.

INFORMATIVES

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:

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

In this instance:

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

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

Case Officer: Andrew Byrne

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

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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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APPENDIX B

2.7 REFERENCE NO - 16/506181/FULL and 16/506182/LBC		
APPLICATION PROPOSAL- PLANNING APPLICATION AND LISTED BUILDING CONSENT APPLICATION FOR;		
Demolition of the 1960s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings. Construction of 34 no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.		
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS		
RECOMMENDATION that planning permission and listed building consent be GRANTED, subject to the completion of a suitably worded S106 Agreement.		
SUMMARY OF REASONS FOR RECOMMENDATION		
The proposals would secure the future of a dilapidated listed building and this would outweigh the limited impact on its setting through the development of new residential buildings within the grounds. The site is located within a sustainable location and has been design to relate well to the site and its surroundings. The impact on the protected trees is acceptable as is the risk posed from flooding. The impact on residential amenity and highway safety and convenience are acceptable. The scheme cannot support financial contributions towards local infrastructure, and this has been demonstrated through a viability appraisal, which has been independently reviewed. The failure to provide for local infrastructure contributions does not outweigh the benefits of the scheme.		
REASON FOR REFERRAL TO COMMITTEE		
This application has been referred by Cllr Beart on the basis that it would not secure the usual financial contributions towards local infrastructure.		
WARD Queenborough and Halfway	PARISH/TOWN COUNCIL NA	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP
DECISION DUE DATE 15/11/16	PUBLICITY EXPIRY DATE 14/10/16	OFFICER SITE VISIT DATE 23/8/16
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal	Decision
SW/07/0223	Demolition of 1960's extension & remodel existing listed building. New replacement three storey building to northern boundary to create 16 residential units. Also refurbish existing shed & convert into secure cycle store.	Approved.
SW/07/0224	Demolition of 1960's extension and remodel existing listed building, new replacement three storey building to northern boundary to create 16 residential units. Also refurbish existing shed of convert to secure cycle store (listed building consent).	Approved.

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SW/99/1007	Demolition of Summer House.	Approved.
SW/93/0334	Change of use from residential to a day centre for Kent County Council	Approved.
Land directly to the south of the application site;		
14/502847/FULL	Proposed re-development to provide 6 No. detached Chalet Bungalows and 8 No. Town Houses complete with associated garages, parking and infrastructure (currently in final stages of construction).	Approved.

MAIN REPORT**THIS IS A JOINT REPORT FOR PLANNING APPLICATION 16/506181/FULL AND LISTED BUILDING CONSENT APPLICATION 16/506182/LBC****1.0 DESCRIPTION OF SITE**

- 1.01 The site measures 1.13 hectares in area, is relatively flat and is located within the defined built up area boundary. The site contains a substantial grade II listed building known as Sheppey Court, last in use as a nursing / care home, which has unsympathetic 1960s wings to the north and south. The building is in a very poor state of repair, having been vacant since 2006, and is currently under scaffolding and a protective cover.
- 1.02 Access to the site is via Halfway Road. The site is screened from this road by a substantial brick wall and a number of mature trees are sited within the grounds of the property, which significantly limit views into the site from this road. Some of the trees on site – 42 in total - are protected by a tree preservation order.
- 1.03 The site is located adjacent to the former dairy site to the south, which is being developed for housing, and within the built-up area boundary as defined in Bearing Fruits 2031, the adopted local plan. The boundaries to the north and west of the site are adjacent to open countryside, and lead onto flat open marshland. This adjacent land also falls within an Area of High Landscape Value, a coastal change management area, and a local countryside gap.
- 1.04 The site falls within Flood Zone 3 on Environment Agency maps.
- 1.05 The site includes a timber carriage house building, in a fairly poor state of repair, immediately to the south of the main building. This building dates back to around 1840.
- 1.06 Immediately to the north of the site access is a single storey lodge building. This remains in the same ownership as the main site, but has been excluded from the development site itself. The lodge is also curtilage listed and dates back to before 1840. It was substantially altered / rebuilt in the early 1970's.

APPENDIX B**2.0 PROPOSAL**

- 2.01 Planning permission and listed building consent is sought for the demolition of the 1960s north and south wing extensions to the listed building; the change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings; and the construction of 34 new dwellings and flats (to provide a total of 13 one-bed units, 19 two-bed units; and 8 three-bed units), incorporated in three blocks, together with associated cycle and bin stores; re-siting and refurbishment of the Carriage House building to the front of the site; landscaping of the site, parking, and reinstatement of the garden wall along the southern boundary.
- 2.02 The specific works to the listed building are to remove the two 1960's large extensions to each wing, and to re-build the west elevation of the building to the original plan form, which incorporates a single storey extension on this elevation. The building would be converted into six dwellings / flats. This would largely maintain the original internal room layout and would retain the two main entrances to the building, with all units accessed off these.
- 2.03 The northern courtyard would be a new-build block containing 9 units over two storeys and in an L shape. The building would measure approx. 32m x 23m on its longest sides and between 7.3 and 7.9 metres in height. It would be sited approx. 9.5 metres from the listed building. The building would be finished in white render with a slate roof.
- 2.04 The southern courtyard would be a U shaped building containing 21 units and built over two storeys. It would measure 43m x 32m x 25m in footprint, and approx. 7.5m in height. It would be sited approx. 13 metres from the listed building. The building would be finished in white render with a slate roof.
- 2.05 The proposed carriage house building would be sited between the northern courtyard building and the existing lodge building. The building would be rectangular in shape and would measure 25m x 7.7m in footprint, and 7.2m in height, and would contain 3 units. The building would have timber boarded elevations and a slate roof.
- 2.06 The scheme would create a mews style development within generally open communal grounds, although a number of units would benefit from small private outdoor amenity areas (typically 5 metres in depth). A large number of trees (57 in total of which 11 are protected by a Tree Preservation Order) on the site would be removed as part of the development. However the wooded area to the front of the site would be retained, as would a number of other mature and significant trees within the site and on the boundaries.
- 2.07 The application also seeks to relocate an existing Carriage House building currently sited to the south of the listed building, to be repositioned in the south east corner of the site and to be utilised as a cycle store. It also seeks to reinstate a garden wall along the southern boundary to 3 metres in height.
- 2.08 The scheme would provide 40 car parking spaces for residents, and 7 visitor car parking spaces.

3.0 PLANNING CONSTRAINTS

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ITEM 2.7

- 3.01 Sheppey Court is a grade II listed building; 42 trees on the site are subject to Tree Preservation Order number 1 of 2015; the site is in flood zone 3 (high flood risk); and the site has archaeological potential. The site falls within the built confines of Minster / Halfway, as noted above.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The following statutory tests set out under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, apply in relation to applications;

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

- 4.02 The National Planning Policy Framework (NPPF) – relevant paragraphs are those relating to sustainable development, delivering a wide choice of quality homes, requiring good design, flood risk, viability and conserving and enhancing the natural and historic environments.
- 4.03 The adopted Swale Borough Local Plan, Bearing Fruits 2031: Policies ST3 (Swale settlement strategy), ST6 (Isle of Sheppey area strategy), CP3 (Delivering a wide choice of homes), CP4 (good design), CP6 (community facilities), CP8 (conserving and enhancing the historic environment), DM6 (transport demand and impact), DM7 (parking), DM8 (affordable housing), DM14 (general development criteria), DM19 (sustainable design), DM21 (water, flooding and drainage), DM28 (biodiversity), DM29 (woodland, trees and hedges), DM32 (development involving listed buildings) and DM34 (archaeology).
- 4.04 Supplementary Planning Documents - Developer Contributions Supplementary Planning Document (SPD) and Listed Buildings Supplementary Planning Guidance (SPG).

5.0 LOCAL REPRESENTATIONS

- 5.01 None received.

6.0 CONSULTATIONS

- 6.01 The **Council’s Tree Consultant** originally confirmed *“In principle, I accept that in order to develop this site some tree removal will need to take place and in part this scheme appears to retain the most prominent and viable specimens.”* However, the southern courtyard needs to be moved further away from the grade A London Plane tree. The relocation of the carriage house to within the trees at the front of the site needs to be addressed from a tree perspective. Paragraph 1.8 of arboricultural report and the ground assessment detailed on page 19 of the ground report appraisal by Geo-environmental seem to contradict each other in terms of level changes required throughout the site. From an arboricultural perspective the reduction of ground levels around any of the retained trees will have a serious detrimental effect on their stability and long term health so further clarification needs to be provided on what areas of the site will be affected, particularly the clarification of what constitutes soft landscaped

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areas. Until these issues are addressed the application is not supported from a tree perspective.

- 6.02 Following amendments, the Tree Consultant advises that *“the scheme has tried to address many of my previous concerns particularly relating to the building distances from the grade A London Plane tree. I appreciate that the distances from this tree have been greatly improved and provided the tree protection measures and arboricultural method statement (AMS) as detailed in the original submitted tree reports are amended to take into account the design changes then I see no arboricultural grounds to refuse the application. I am also now satisfied that the revised contamination measures within the RPA of the trees are acceptable requiring only a maximum capping of 100mm within the RPA. Again, we need to ensure that the revised AMS covers this aspect of the scheme.* This issue is discussed in the appraisal below and will be secured by a planning condition.
- 6.03 The Council's **Environmental Protection Team Leader** notes identified asbestos will need to be removed by a licenced contractor; demolition and construction may cause noise and dust pollution to local residents; the contamination report suggests there is a dust suppression regime; intrusive investigations conclude there is a need for remediation on site in garden areas- removal of current topsoil and replacement with imported clean topsoil is necessary in garden areas and soft landscaping. A series of conditions are recommended. The asbestos issue is dealt with by alternative legislation and therefore it is not appropriate to impose the condition requested. No objection or further comment has been raised following the submission of a revised contamination report to better protect existing trees on site (see tree consultant's comments above)
- 6.04 The Council's **Climate Change Officer** welcomes the proposal to build to the enhanced water standards. However, with regards to renewable energy this reads, she says, more like an outline application. Various technologies are discussed and suitable ones flagged up as possible - solar thermal and solar photo voltaics, however the statement says these will be decided at the design stage. Given that this is a full application the climate change officer considers there should be more detail at this stage.
- 6.05 The Council's **Strategic Housing and Health Manager** confirm 0% affordable housing provision would be in accordance with the Council's local plan policy (DM8).
- 6.06 The Council's **Greenspaces Manager** considers it appropriate for a small amount of toddler play equipment to be provided within the site, but otherwise makes no request for off-site contributions. A condition is included below to deal with this.
- 6.07 **KCC Highways and Transportation** considers traffic movements to be acceptable and raises no objection on highway capacity grounds. The number of parking spaces accords with adopted standards although some allocated spaces are remote from their dwellings and require amendments. KCC want the width of the access to be maintained at 5.5m for at least a distance of 15m from the carriageway edge of Halfway Road to enable two cars to pass each other. The carriage house cycle store is remote and may not be used due to perceived lack of security. Cycle storage should be in a more secure and convenient location.
- 6.08 Amended plans have been received, and KCC note that the revisions as requested have been carried out other than the position of the cycle store. They request that if

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this cannot be relocated, then it should be adequately restricted and secured to give confidence to residents to use it. Otherwise no objections are raised, subject to conditions.

6.09 **KCC Regeneration Projects** request;

- *Primary Education*- £78,114.00 towards Halfway primary school expansion.
- *Libraries* -£1872.62 towards the additional book stock required to mitigate the impact of the additional borrowers generated from this development.
- A condition regarding High Speed Fibre Optic connections.

6.10 **KCC Ecology** initially reviewed the submitted Ecological Impact Assessment and advised that further information was required prior to determination of the application. Following the submission of such information, no objection is raised in relation to protected species and ecological measures within the site, subject to conditions. It is advised that a developer contribution is secured to the Borough-wide mitigation strategy relating to the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).

6.11 **KCC Drainage** raises no objection to the proposal subject to the imposition of a SUDS condition. It notes it is proposed to attenuate surface water on site within granular sub-base of the impermeable access drive and permeable parking areas with a controlled discharge to public sewer of 2.9 litres per second. Southern Water have indicated via a Level 2 capacity check that this flow can be accommodated within the receiving system. It is anticipated that Southern Water may not accept flows from the current design arrangement and that further re-configuration of the on site system will likely be required.

6.12 **KCC Archaeology** raise no objection subject to conditions for a programme of building recording, and a programme of archaeological works.

6.13 **Historic England** support the current application as the proposed scheme seeks to bring Sheppey Court, a grade II listed building, back into positive reuse and in its view will see limited harm to its significance. It recommends that the application be determined in accordance with national and local policy guidance and on the basis on the Council's expert conservation advice.

6.14 None of the 6 amenity societies responded to consultation under the application for listed building consent.

6.15 **The Environment Agency** raises no objection subject to a condition requiring the finished floor level (FFL) of the north and south courtyards be no lower than 3.8m AOD.

6.16 **Natural England** note the proposal is for new dwellings within the zone of influence (6km) of the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites). It is the Council's responsibility to ensure the proposals fully adhere to the agreed approach within the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

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Subject to the above, Natural England is happy to advise that the proposals may be screened out as not having a likelihood of significant effects on the designated sites.

- 6.17 **Southern Water** notes it appears the applicant is proposing to abandon a public sewer. A public sewer may cross the site so should one be found during construction it should be assessed before further work commences on site. Southern Water can provide foul and surface water sewerage disposal and a water supply. General SUDS guidance is provided. An informative is recommended to address Southern Waters requirements.
- 6.18 **The LMIDB** confirm provided details of the proposed SUDS and its maintenance are designed and agreed with KCC SUDS, the LMIDBs interests should not be affected by the proposal. Appropriate conditions should be attached.
- 6.19 **The NHS Swale Clinical Commissioning Group** has requested a contribution of £360 per new resident is requested amounting to £33,696 towards expanding existing facilities within the vicinity of the development.
- 6.20 **Kent Police** note the application refers to secured by design and encourages an application for accreditation. The cycle store could be better located with better surveillance. A condition or informative regarding crime prevention is requested.
- 6.21 **UK Power Networks** raises no objection to the proposal.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The application includes a thorough set of existing and proposed plans and elevations, artists impressions and the following documents;
- Planning Statement
 - Design and Access Statement
 - Heritage Statement
 - Ecological Impact Assessment and additional letter
 - Arboricultural Impact Assessment and Method Statement
 - Flood Risk Assessment
 - Transport Assessment
 - Report on Financial Viability for Planning (confidential)
 - Ground Appraisal Report
 - Services Appraisal
 - In Situ Soakage Tests
 - Sustainability Statement
 - Asbestos Management
 - Hazardous Materials Inspection Report

8.0 APPRAISAL

- 8.01 The site is – as noted above - located within the built up area boundary as defined by the proposals map of the adopted plan, and where new residential development is directed under local plan policies ST3 and ST6. The development would add to the housing stock within the Borough and would provide a number of smaller units of accommodation, adding to the range of housing available in the area, in accordance with policy CP3 of the adopted plan.

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- 8.02 As such, the general location of the site is acceptable for housing development. However there are a number of site specific and local constraints that relate to this development, and these are considered below.

Impact on listed building

- 8.03 Sheppey Court is a Grade II listed building. The list description sets out that it was built in the early C19 for Sir Edward Banks as a country retreat and in a Greek Revival style. The building is stuccoed with a shallow pitched slate roof, and at the time of listing was little altered externally, with some original internal fittings – notwithstanding that one of the extensions to the west had been added in 1968. Members will be aware that Sir Edward Banks was an important local figure, involved in the construction of the Sheerness naval dockyard and the foundation of Banks Town (which later became Sheerness-on-sea).
- 8.04 The building has, in modern times, been in use as a care home, but has been vacant for more than 10 years. The building has fallen into disrepair and has been on the local Heritage at Risk register for many years. It is in need of substantial investment. As a result, the scheme put forward is an “enabling” form of development, with the revenue raised by the quantum of new build development allowing for the repair, restoration and conversion of Sheppey Court (including demolition of the poor 1960s extensions).
- 8.05 The listed building itself would be substantially restored and improved through the development, and the internal layout has been designed to have minimal impact on the listed building through the conversion works. The removal of the extensions and restoration would directly enhance the special interest and significance of the listed building.
- 8.06 The new buildings would impact upon the setting of the listed building. They would add substantial built form within the grounds. However, they have been sited and designed in a way that maintains the prominence of the listed building, through the use of open courtyard areas, the use of lower eaves height in comparison to the listed building, and ridge lines that are no higher than the listed building. The scheme is considered to strike an appropriate balance between the quantum of development required to provide a viable scheme for the site, and the need to avoid substantial harmful impacts to the setting of this listed building through development within its grounds. The scheme is supported by the council’s conservation officer and by Historic England, who both advise that there would be limited harm to the significance of the listed building.
- 8.07 The scheme would also affect the setting of the curtilage listed lodge building – but as this was significantly altered in the 1970s its significance is very limited, and it is not considered that any harm would arise to this building.
- 8.08 As noted above, S72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 places a strong presumption against any harm arising from development to a listed building and its setting, and this carries substantial weight in the decision making process. In my opinion, the limited harm to the setting of the listed building would be offset by the substantial enhancement to the listed building itself that would arise from the development.

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- 8.09 The NPPF sets out that development that leads to less than substantial harm to the significance of a designated heritage asset should be refused, unless it can be demonstrated that such harm is necessary to achieve substantial public benefits to outweigh that harm. The key benefits outlined above would, in my opinion, be sufficient to outweigh this less than substantial harm. Likewise, and for the above reasons, I do not consider that there would be any conflict with Policy DM32 of the adopted plan.

Impact upon wider character and appearance of area

- 8.10 The site is located at the southern end of Halfway Road. The area is generally characterised by a consistent line of two storey built form along the eastern side of the road, and more intermittent development on the western side, where built form is separated by the presence of the cemetery and also by the grounds to Sheppey Court. Members will note, however, that a new development is being built at The Old Dairy site immediately to the south of the site. The dominant features of the site from Halfway Road are the tall brick boundary wall and landscaping beyond it. From the road, the building at Sheppey Court has very limited visual impact.
- 8.11 The proposal would substantially add to built form within the site. However, it would be set back from Halfway Road and the existing wall and tree screen would be retained, albeit that a number of trees would be removed within the site. The new buildings would be visible from the road, and particularly from the site access, but such views would be limited by the set back from the road and the height of these buildings, which would be set below the level of the listed building, and the retained boundary screening. The main visually dominant feature of the site from the road would continue to be the wall and mature trees.
- 8.12 The existing carriage building would – as noted above - be re-located to the front of the site and would be sited just inside the boundary wall and within the landscaped area. It would be used as a cycle store, and would be located adjacent to an existing opening to be used as a pedestrian entrance for the new development. Due to the height of the carriage building, it would be visible above the wall. However it is modest in footprint and would not detract from the prevailing landscaped frontage that would be retained. It would enable a curtilage listed structure to be retained on the site, albeit in a new position.
- 8.13 Many of the trees on site are, as noted above, protected under an area Tree Preservation Order. The proposal would include the removal of a number of trees on site (including 11 subject to the TPO), in part to accommodate new buildings, but also for reasons of good arboricultural practice. The Council's Tree Consultant is satisfied that the most significant trees would be retained, and the scheme has been amended to address the relationship between the Southern Courtyard building and an adjacent London Plane tree. Despite the loss of a number of trees, I am satisfied that the landscaped character of the site would be retained – particularly when viewed from Halfway Road.
- 8.14 Overall, I consider that the impact from Halfway Road would be modest and would not be harmful to the character or appearance of the area.
- 8.15 The new buildings would be sited close to the north and west boundaries of the site, which are generally unscreened and with long range views across the open flat marsh landscape. It is likely that some long range public views of the site would be possible

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across this landscape, which is an Area of High Landscape Value – although it is important to stress that this designation does not cover the application site itself. The Swale Landscape Character and Biodiversity Appraisal (SPD) identifies this as part of the Sheppey Court and Diggs Marshes, with a moderate condition and sensitivity. The guidelines set out that proposals that would impinge on the sense of undeveloped openness between otherwise developed areas should be avoided.

- 8.16 The proposal would increase the mass and quantum of built form on the site. However, from the marshes, the existing building with substantial later extensions already has a visual impact on the current landscape, and the existing application site could not be described as adding to this sense of openness. Taking this into account, together with the fact that the site falls within the built confines of Halfway, and forms part of the backdrop of built form of the settlement to the marshes, I do not consider the visual impact of the development to be unacceptable or harmful to the sense of undeveloped openness of the marshes.
- 8.17 Overall, I conclude that the development would retain positive site features (for example the frontage landscaping and set-back from Halfway Road) and would not cause harm to the character and appearance of Halfway Road or the open marshland landscape to the north and west. On this basis, I consider that the application would be in accordance with policies CP4 and DM14 of the Local Plan, and would not conflict with policy DM24 of the Plan relating to the conservation of valued landscapes.

Impact upon surrounding residential amenities

- 8.18 Policy DM14 of the adopted Local Plan seeks to ensure that there would be no unacceptable impacts on surrounding amenities.
- 8.19 The lodge building at the site entrance is owned by the applicant, but is not part of the application site. The flank wall to the new Carriage House block would be sited approximately 18 metres from the rear of this property, and no windows are positioned within this flank wall. Given the relatively modest height of this building, which also steps down to single storey level at its closest point to the Lodge, I do not consider it would be likely to cause any unacceptable harm to light, privacy or outlook to this property.
- 8.20 The southern Courtyard building would be sited close to the boundary with the new residential development under construction at The Old Dairy site to the south. The southern elevation of the new building would be sited around 20 metres from the site boundary, with a greater distance to the new dwellings at the former dairy site. I consider this relationship to be acceptable. The eastern side of this building contains windows that would face towards Halfway Road and would be capable of views across gardens to The Old Dairy site. However, due the siting of the building and angle of views, I do not consider this to be unacceptable. However I would recommend that some screens are provided to balconies closest to this development, and this can be secured via a planning condition. The scheme includes rebuilding a 3 metre high wall on part of the southern boundary next to these adjacent new units. This would result in a degree of enclosure, although the adjacent units are over three storeys with habitable rooms at first floor level and above, which would not be materially affected by the wall. As the wall would be north facing, it would not obstruct sunlight to these gardens. Overall, I consider this relationship to be acceptable.

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- 8.21 Given the set back of the development from Halfway Road itself, I do not consider that any unacceptable impact would occur to those properties on the eastern side of Halfway Road.
- 8.22 Taking the above into account, I consider that the development would not cause unacceptable harm to surrounding properties, and would comply with Policy DM14 of the adopted Local Plan.

Whether the development would provide a suitable level of amenity to future residents

- 8.23 The proposed units are of a good size and would provide a satisfactory internal level of accommodation for future occupants. Most units are provided with small private gardens and / or balconies. In addition, the remaining grounds would be for communal use. Some concern was initially raised regarding the relationship between the Southern Courtyard building and adjacent trees, but this has been improved through amendments to the siting of the building. In my opinion, the scheme would be high quality in design and would provide a good level of amenity for future residents.

Flood Risk

- 8.24 The site is located within Flood Zone 3 on Environment Agency maps and is at risk from flooding. A Flood Risk Assessment has been submitted to demonstrate how the development can be undertaken with raised floor levels to mitigate this. The Environment Agency do not raise objection to the scheme, on the basis that a condition is used to ensure that floor levels are suitable.
- 8.25 Policy DM21 of the adopted Local Plan seeks to avoid inappropriate development in areas at risk of flooding. The National Planning Policy Framework sets out a sequential approach to development, where development should be directed to sites within flood zone 1 (at least risk from flooding) before considering sites in flood zones 2 and 3 (at greater flood risk). In this instance, the justification for the new development on this site is to bring forward the restoration of the listed building, which would not take place if other sequentially preferable sites were used. Taken together with the absence of any objection from the Environment Agency, I am satisfied that the development would not be in conflict with the adopted policy or advice in the NPPF.

Highways safety and parking

- 8.26 Policies DM6 and DM7 seeks to ensure that traffic generation from new developments is acceptable, that access to other means of transport are available, and that parking is provided in accordance with guidelines.
- 8.27 The KCC Highways and Transportation Officer is satisfied that the traffic generated can be accommodated on the local highway network without any unacceptable impacts. Parking, including visitor parking, has been provided in accordance with guidelines.
- 8.28 The KCC Highways and Transportation Officer has raised some concern regarding the security of the carriage building as a cycle store, being divorced from the dwellings. This can be achieved through provision of a secure pedestrian gate at the access onto Halfway Road, the details of which can be dealt with via a planning condition.

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- 8.29 On this basis, I am satisfied that the development would accord with the above policies.

Viability

- 8.30 Members will note from the consultation responses above that, in line with normal procedures for a development of this site, it would generate a requirement for financial contributions to deal with additional demand on local infrastructure, primarily towards additional primary school places and NHS requirements. The total contributions are calculated at £141,102.24
- 8.31 The developer has submitted a viability appraisal to set out that the development is unable to viably meet these costs (other than the SAMMS payment (which is non-negotiable). This appraisal has been revised during the course of the application and has been assessed twice by consultants appointed by the Council. A copy of the latest report on viability by the Council's consultants is attached under Part 6, as Members will appreciate that it includes sensitive financial information.
- 8.32 In short, the appraisal concludes that the development would result in a negative Residual Land Value (RLV) (i.e the value of the site once development costs (including the developer's reasonable profit margin have been subtracted from the value of the completed development). This is calculated as a small negative value without the S106 contributions, rising to a substantial sum when the S106 contributions are taken into account. Members will note from the viability report that the developer's viability assessment shows an even greater negative value, and that the Council's consultant has challenged a number of these calculations and assumptions – but still concludes that a significant negative RLV would arise.
- 8.33 The practical effect of this is that the negative RLV would have to be absorbed within the developer's profit margin, which in turn would lower profit levels. When the negative RLV is taken into account, together with the benchmark land value for the site as set out in the attached viability assessment, this would reduce the margin to well below the standard 20% (as agreed by the Planning Inspectorate and others) that has been used in the viability appraisal for this development, and creates significant risk that the development would not proceed.
- 8.34 Government advice is contained within the National Planning Practice Guidance on Viability. This sets out that a site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken. It states that where an applicant is able to demonstrate that S106 requirements would cause the development to be unviable, then the Local Planning Authority should be flexible in seeking such agreements.
- 8.35 It is clearly a disadvantage of the application that the development cannot reasonably make contributions towards local infrastructure. Nonetheless, in this instance I consider that there are two significant factors that would point in favour of the development. Firstly, that the development finances have been scrutinised by a consultant appointed by the Council and found to be unviable with the S106 costs. Secondly, that in this particular instance the development in question would result in significant enhancement of a listed building that has been on the local Heritage at Risk register for many years. The extent of new development within the site has been

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limited to avoid unacceptable impacts on the listed building, and this in turn also limits the overall development value of the site. The provision of additional housing to the Borough's stock is also a benefit, although I would give this less weight in itself, as the Council can currently demonstrate a 5-year housing supply.

- 8.36 Policy CP6 of the adopted Local Plan sets out that development proposals should provide for community facilities and infrastructure. However the policy does allow for viability to be taken into account. Whilst the policy does endorse a "claw-back" mechanism for review if property values rise, given the moderate nature of this development and the significant negative RLV, I do not consider that it would be of benefit to pursue this. Overall, I consider that the case on viability grounds has been robustly analysed and that the scheme cannot make contributions towards local infrastructure. In taking advice within the NPPG into account, together with the substantial enhancements to the listed building that would arise, I consider in this instance that the development should not be refused due to lack of contributions towards local infrastructure.

Ecology

- 8.37 The applicant has submitted a number of ecological reports and surveys which identify that bat roosts are present in some trees on site, that there is a low population of slow worms and grass snakes, and that a barn owl nests on the site. A series of mitigation measures are proposed including alternative roosts within the site, to the satisfaction of the county ecologist.
- 8.38 The proposed development site is 2.6km from the Medway Estuary and Marshes and 1.6km from the Outer Thames Estuary. The developer has agreed to make a financial contribution towards the Borough-wide mitigation strategy (SAMMS) to protect the estuary and marshes. These contributions should ensure that the proposed development avoids likely significant effects on the designated sites due to an increase in recreation. The proposal can therefore be screened out of the need for further assessment.
- 8.39 I am satisfied that the proposal has been designed to provide suitable mitigation to ensure no adverse biodiversity impacts would arise, in accordance with Policy DM28 of the adopted Local Plan.

Other Matters

- 8.40 Local Play – The Council's Greenspaces Manager recommends that a small amount of toddler play equipment is provided within the site, but that otherwise no on or off site provision is required. This can be achieved by using a planning condition.

9.0 CONCLUSION

- 9.01 The site is located within the built confines of Halfway, where development is generally accepted. The existing listed building on the site is in very poor condition and at risk, and the development would ensure the restoration of this building which would be a direct significant enhancement to the building. The additional new built form around the site would affect the setting of the building, but is well designed and related to the listed building and the limited harm that would arise would be outweighed by the direct enhancement to the listed building itself.

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- 9.02 The scheme would relate well to other features within the site and to the surrounding area, and would be unlikely to cause any unacceptable impacts to surrounding neighbouring properties. Highway impacts are considered to be acceptable, as are ecology and tree impacts.
- 9.03 The scheme would not make a financial contribution to local infrastructure, but the submitted viability appraisal has been reviewed by the Council's consultant and it has been found that the scheme cannot support such costs. Whilst this is a disadvantage, government advice is that Local Planning Authorities should be flexible when viability issues are raised. The benefits of restoring the listed building also weigh significantly in favour of such flexibility.
- 9.04 The scheme is considered to be in accordance with the adopted Local Plan and I recommend that planning permission and listed building consent should be granted, subject to completion of a legal agreement to secure the SAMMS payment to mitigate against impacts on the Thames Estuary and Marshes, Medway Estuary and Marshes, and The Swale Special Protection Areas (SPAs) and Wetlands of International Importance under the Ramsar Convention (Ramsar Sites).

10.0 RECOMMENDATION**A) That Planning permission (16/506181/FULL) is Granted, subject to completion of a legal agreement and 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.

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

- 2) No development beyond the construction of foundations shall take place until the following details have been submitted to, and approved in writing by the Local Planning Authority:
- (i) A sample panel of the render(s) to be used (in its proposed colour finish, or relevant through-coloured form) on the north and south courtyard buildings;
 - (ii) A sample of the natural slate(s) and any associated ridge and hip tiles to be used on the new buildings, and sample of the natural slate(s), any associated ridge and hip tiles to be used on the existing listed building
 - (iii) A sample of the weatherboarding to be used (in its proposed colour finish) on the new carriage house building; and
 - (iv) A sample panel of any replacement stucco to be used (in its proposed colour finish) on the listed building.

Reason : To ensure that the development be carried out in accordance with the approved details.

- 3) The development shall be carried out in accordance with the following approved plans: 15072 S101, P201B, P202C, P210A, P211A, P212, P213, P214B, P215A, P216A, P217C, P218, P220.

Reason: In the interests of proper planning.

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- 4) No development shall commence until an Arboricultural Impact Assessment and Method Statement (to take into account the revised layout) has been submitted to and approved in writing by the Local Planning Authority. The statement shall include measures to protect existing trees to be retained on site and measures to deal with contamination within the root protection area of retained trees. The development shall be carried out in accordance with the approved details, and the approved tree protection measures shall be fully installed prior to the commencement of any development on the site, and retained on site for the duration of the construction.

Reason: To protect important trees on site, in the interests of visual amenity.

- 5) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that historic building features are properly examined and recorded.

- 6) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 7) Prior to the commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 8) Prior to the first occupation of the development details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i. a timetable for its implementation, and
 - ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

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- 9) Prior to the commencement of development details of the means of foul drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: To prevent flooding and ensure appropriate utility provision at the site.

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

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

- 11) 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 and encouraging wildlife and biodiversity.

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

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

- 13) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:

1) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

2) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 1. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; any changes to these components require the express consent of the Local Planning Authority. The scheme shall thereafter be implemented as approved.

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Reason: To ensure contaminated land is dealt with appropriately.

- 14) No development shall take place until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. This shall include details relating to:
- (i) a programme for the suppression of dust during any demolition works and construction of the development
 - (ii) The areas to be used for the storage of plant and materials on site;
 - (iii) The location and size of temporary parking and details of operatives and construction vehicle loading, off-loading and turning and personal, operatives and visitor parking;
 - (iv) Measures to guard against the deposit of mud and similar substances on the public highway

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

Reasons: To ensure the development does not prejudice conditions of residential amenity and highway safety and convenience through adverse levels of noise and disturbance during construction.

- 15) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

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

- 16) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interests of residential amenity.

- 17) No development beyond the construction of foundations shall take place until a scheme for the provision of a toddler play area within the site, together with a scheme for the long term management and maintenance of the play area, has been submitted to and approved in writing by the Local Planning Authority. The play area shall be installed on site prior to first occupation of any part of the development, and retained thereafter in accordance with the approved details.

Reason: To ensure that the development provides sufficient facilities for children.

- 18) No development beyond the construction of foundations shall take place until a management plan for the communal areas within the site has been submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of responsibilities for management, and measures for the long term

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management and maintenance of the areas. The development and maintenance of the land shall be carried out in accordance with the approved details.

Reason: To ensure that the communal areas are properly managed and maintained.

- 19) The area shown on the submitted layout as vehicle parking and turning space shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) 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.

Reason: Development without provision of adequate accommodation for the parking and turning of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- 20) Prior to the occupation of any dwelling, measures to provide a secure pedestrian gated entrance to the south east corner of the site, and to secure the cycle storage area as shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage area and approved security measures shall be provided prior to the occupation of any dwelling.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- 21) The access details shown on the approved plans shall be completed prior to the occupation of any buildings hereby approved, and the access shall thereafter be maintained.

Reason: In the interests of highway safety.

- 22) The finished floor levels for the Northern and Southern Courtyard buildings and for plot 2 within the Carriage House building shall be no lower than 3.80mAOD.

Reason To minimise risk of internal flooding.

- 23) Prior to the first occupation of plots 23, 29 and 31, details of privacy screens to be erected to the balconies to minimise overlooking into the residential development to the south of the site shall be submitted to and approved in writing by the Local Planning Authority, and installed in accordance with the approved details. The screens shall thereafter be retained as approved.

Reason: To protect neighbouring amenities.

- 24) The development shall proceed in accordance with the reptile measures detailed within the EAD ecology letter dated 14th September 2016.

Reason: To ensure ecological matters are dealt with appropriately.

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- 25) No development shall take place (including demolition) until a detailed Construction Ecological Management Plan for the removal of the trees and the demolition of the 1960s north and south wing extensions has been submitted to and approved in writing by the Local Planning Authority. The content of the Construction Ecological Management Plan shall include the:
- a) Purpose and objectives for the proposed works;
 - b) Working method necessary to achieve stated objectives;
 - c) Timings of works to ensure minimal disturbance to protected species;
 - d) Provision for bat 'rescue' if animals are encountered;
 - e) Provisions for reptile 'rescue' if animals are encountered;
 - f) Extent and location of proposed works shown on appropriate scale plans;
 - g) Persons responsible for implementing works.

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

Reason: To ensure ecological matters are dealt with appropriately.

- 26) Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on the site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan;
 - h) Ongoing monitoring and remedial measures including all species outlined in the Ecological Appraisal.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure ecological matters are dealt with appropriately.

- 27) No development beyond the construction of foundations shall take place until details of the location and design of the following ecological enhancement measures have been submitted to and approved in writing by the Local Planning Authority:
- 1. 15 x Schwegler Type 1A swift box;
 - 2. 5 x Schwegler Type 1B nest box;
 - 3. 15 x 1B stock Type B;
 - 4. 1 permanent barn owl box.
 - 5. The creation of one wildlife pond;
 - 6. Large basking bank for reptiles;
 - 7. Large hibernacula for amphibians.

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The development shall be carried out in accordance with the approved details prior to first occupation of any unit.

Reason: To ensure ecological enhancements are secured.

- 28) Prior to the commencement of development details for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The agreed details shall be laid out at the same time as other services during the construction process.

Reason: To secure high quality communications infrastructure.

- 29) Notwithstanding the details shown on drawing no. P217 Rev. C, the piers dividing the parking bays shall be provided with angled straight or curved brackets close to their junction with the underside of the opening in accordance with a revised 1:25 part elevation and associated 1:1 or 1:2 plan section of the pier and bracket, that shall first have been submitted to and approved in writing by the LPA before any development beyond the construction of foundations.

Reason: In the interests of visual amenity and to preserve the setting of the listed building

- 30) Before any of the new residential units permitted are occupied, details of a scheme of heritage interpretation for the listed building, including details of the information to be provided, design of interpretation boards, siting, and measures to view the listed building (together with maintenance & management of the interpretation facility) shall be submitted to, approved in writing by the Local Planning Authority, and implemented in accordance with the details approved in relation to this condition. Thereafter the scheme shall be retained and maintained in accordance with the approved.

Reason: To enhance the significance of the listed building.

- 31) All windows and external doors shall be of timber construction and retained/maintained in timber thereafter.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 32) Before any development commences, 1:10 elevation details and 1:1 or 1:2 vertical and plan sections of each new/replacement window and door type to be used shall be submitted to and approved in writing by the Local Planning Authority. The sections to be provided shall show details of the head, jamb, cill/sub cill, glazing bar detailing, glazing section, timber or putty beading detailing, any trickle vent detailing, and in the case of external doors, framing, fanlight detailing, panelling, viewing window detailing, and detailing for any weatherboards to be used.

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

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Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 33) Before any development commences, a colour scheme for all external joinery for the new and existing buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the colour scheme shall thereafter be retained and maintained in accordance with the details approved in relation to this condition.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 34) Upon completion, no further development, whether permitted by Classes A, B, C, D, E, F, G and H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 35) No satellite dishes or solar panels shall be erected or installed on any building.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 36) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site, other than those expressly approved under this planning permission.

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

- 37) None of the residential units in the new buildings shall be occupied until (a) the works to the listed building have been carried out and completed in accordance with the approved drawings, and (b) the repair and reinstatement works to the curtilage listed boundary walls have been completed in accordance with the details approved under condition 5 of the corresponding listed building consent, unless agreed otherwise in writing by the Local Planning Authority

Reason: In the interests of visual amenity and to preserve the setting of the listed building.

INFORMATIVES

- 1) Southern Water requests that the applicant contacts it to discuss the requirement for a formal application to; abandon a public sewer; provide foul and surface water drainage; and provide a water supply on 0330 303 0119. Should a sewer be found during construction the developer should contact Southern Water to discuss its requirements.

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- 2) You are advised that adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- 3) (In relation to condition 30, you are recommended that the scheme should include the provision of two equally sized lava stone colour interpretation panels set flush into the brickwork either side of the viewing window. The text and illustrations to be shown on the panels is required to be provided as part of the submission of details for condition 6). The LPA also recommends the creation of a rectangular opening in the brickwork of the front boundary wall, which would be edged in a brick quoin detail to provide a well-presented modern intervention to the curtilage listed wall, and that the opening would be large enough to allow two persons to view the listed building in its new landscaped setting at the same time, but provided with painted (vertical) steel bars along its length to prevent possible unauthorised entry through the opening).

The Council's approach to this application:

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

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

In this instance:

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

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

B) That Listed Building Consent (Ref: 16/506182/LBC) is granted, subject to the following conditions

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

Reason: In pursuance of Section 18 of the Listed Building Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) Prior to any commencement, a detailed schedule of works for the conversion and extension of the listed building shall be submitted to and approved in writing by the Local Planning Authority. The schedule of works shall include a method statement

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detailing how the listed building will be protected from potential damage during the course of the demolition works to the attached modern extension. The works shall be carried out in accordance with the approved details.

Reason: To preserve and enhance the significance of the listed building.

- 3) Unless otherwise agreed in writing, no works shall take place to the listed building until the modern extension has been demolished in accordance with the method statement approved in relation to condition 2 of this consent.

Reason: To preserve and enhance the significance of the listed building.

- 4) The relocation of the curtilage listed carriage house building shall be carried out in accordance with a detailed schedule of works which shall have been submitted to and approved in writing by the LPA before any works commence. The schedule of works shall include a method statement detailing how (a) the partial demolition of the modern additions to the building will be demolished without harming the historic fabric, and (b) how the building will be practically relocated from its present to its proposed site.

Reason: To preserve and enhance the significance of the listed building.

- 5) Prior to the commencement of any works, a detailed schedule of repair and reinstatement works to the curtilage listed boundary wall shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to any occupation of the listed building.

Reason: To preserve and enhance the significance of the listed building.

- 6) All works to the listed building and curtilage listed building and walls shall be carried out using matching materials and finishes, except as otherwise agreed in the required schedule of works detailed in the above stated conditions.

Reason: To preserve and enhance the significance of the listed building.

Habitats Regulation Assessment

This HRA has been undertaken without information provided by the applicant.

The application site is located within the zone of influence of The Swale Special Protection Area (SPA) which is a European designated site 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 (NE) advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 61 and

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62 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment.

It is the advice of NE that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects: financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG) and; the strategic mitigation will need to be in place before the dwellings are occupied.

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

- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.

Based on the correspondence with Natural England, I conclude that off site mitigation is required. On this basis and in accordance with the SAMM strategy, the applicant has agreed to contribute £281 per unit to address SPA recreational disturbance towards through strategic mitigation. This mitigation will include strategies for the management of disturbance within public authorised parts of the SPA as well as to prevent public access to privately owned parts of the SPA.

Conclusions

Taking the above into account, the proposals would not give rise to significant effects on the SPA. At this stage it can therefore be concluded that the proposals can be screened out for purposes of Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwellings proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

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APPENDIX C

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Thursday, 4 January 2018 from 7.00pm - 10.22pm.

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

OFFICERS PRESENT: Simon Algar, Philippa Davies, Andrew Jeffers, Ross McCardle, Cheryl Parks, Graham Thomas and Jim Wilson.

ALSO IN ATTENDANCE: Councillor Paul Fleming.

APOLOGY: Councillor Roger Clark.

420 FIRE EVACUATION PROCEDURE

The Chairman ensured that those present at the meeting were aware of the emergency evacuation procedure.

421 MINUTES

The Minutes of the Meeting held on 7 December 2017 (Minute Nos. 384 – 389) were taken as read, approved and signed by the Chairman as a correct record.

422 DECLARATIONS OF INTEREST

Councillor Ken Ingleton declared a Disclosable Non-Pecuniary Interest in respect of Item 2.6, Bayshore, 84 Scarborough Drive, Minster, as the applicant was a friend of his.

423 PLANNING WORKING GROUP

The Minutes of the Meeting held on 19 December 2017 (Minute Nos. 418 – 419) were taken as read, approved and signed by the Chairman as a correct record.

17/505562/FULL – GLADSTONE HOUSE, 60 NEWTON ROAD, FAVERSHAM, ME13 8DZ

The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

The Area Planning Officer reported that the County Archaeological Officer had advised that no precautionary conditions were required for the application. Two further letters from neighbouring residents who objected to the application, had been received. One objector had stated that the application would have a domino-effect and this would worsen parking issues. The other objector had submitted

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Resolved: That application 17/505078/FULL be refused on the grounds of its overlooking and overbearing impact on neighbouring properties leading to demonstrable harm to the residential amenity and quality of life for those residents.

2.7 REFERENCE NO - 16/506181/FULL and 16/506182/LBC			
APPLICATION PROPOSAL- PLANNING APPLICATION AND LISTED BUILDING CONSENT APPLICATION FOR;			
Demolition of the 1980s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 8no. residential dwellings. Construction of 34 no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.			
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS			
WARD Queenborough and Halfway	PARISH/TOWN COUNCIL NA	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP	

This item was considered in closed session.

PART 5

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

- Item 5.1 – Brook Hall House, Waterham Road, Hernhill
APPEAL DISMISSED

DELEGATED REFUSAL

- Item 5.2 – Land on the west side of Spade Lane, Hartlip

Appeal A: APP/V2255/C/16/3165246
 Appeal B: APP/V2255/C/16/3165247
 Appeal C: APP/V2255/C/16/3165248
 Appeal D: APP/V2255/C/16/3165249
 Appeal E: APP/V2255/C/16/3165250
 Appeal F: APP/V2255/C/16/3165251
 Appeal G: APP/V2255/C/16/3165252
 Appeal H: APP/V2255/C/16/3165253
 Appeal I: PP/V2255/W/16/3165245

Appeals A and B ALLOWED – ENFORCEMENT NOTICE QUASHED

Appeals C to H NO FURTHER ACTION - ENFORCEMENT NOTICE QUASHED

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Appeal I APPEAL DISMISSED

- Item 5.3 – 100 Station Road, Teynham

APPEAL DISMISSED AND COSTS REFUSED

COMMITTEE REFUSAL – AGAINST OFFICER RECOMMENDATION

425 EXCLUSION OF THE PRESS AND PUBLIC

Resolved:

(1) That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 5 and 7 of Part 1 of Schedule 12A of the Act:

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.

426 SCHEDULE OF DECISIONS

2.7 REFERENCE NO - 16/506181/FULL and 16/506182/LBC		
APPLICATION PROPOSAL- PLANNING APPLICATION AND LISTED BUILDING CONSENT APPLICATION FOR;		
Demolition of the 1980s north and south wing extensions. Change of use, conversion and renovation of the Grade II listed building to provide 6no. residential dwellings. Construction of 34 no. 1-bed, 2-bed and 3-bed terraced dwellings with associated new cycle and bin stores. Re-siting and refurbishment of the Coach House. Landscaping of the site, to include parking areas and a new wildlife pond. Reinstatement of the garden wall along the southern boundary.		
ADDRESS Sheppey Court Halfway Road Minster-on-sea Kent ME12 3AS		
WARD Queenborough and Halfway	PARISH/TOWN COUNCIL NA	APPLICANT P A Rooney & Bentley Developments L AGENT Vail Williams LLP

The Major Projects Officer explained that contrary to the report, the application was for a total of 39 dwellings, of which 33 (not 34) would be new build. Further to the viability of the development, as noted on page 69 of the report, he explained that the financial contributions that the developer had agreed to pay were £10,959 (£281 per dwelling). He explained that officers considered the application to be a strong scheme, which would secure a long-term use of the listed building, and the removal of the poorly designed 1980s extension. He further explained that officers were happy in the light of the two viability assessments that had been carried out, that the viability of the scheme had been properly assessed. He stated that it was regrettable that the whole amount of contributions (£141,102.24) could not be

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secured, but stated that it was an acceptable, enabling development, and would bring the special building back into a productive long-term use.

The Conservation and Design Manager provided some background to the application and explained that the building continued to decay. The applicant had provided a robust viability statement, outlining the minimum they could achieve and simultaneously have a scheme that did not harm the listed building or its setting. If the scheme was not supported, the building would potentially sit on the Buildings at Risk Register for an additional number of years, with further deterioration, and a possible increase in restoration costs in the future. He explained that it was in a poor condition, especially in relation to the roof and the interior, with lots of broken glass and removed fireplaces, and that these problems would likely exacerbate without some timely intervention.

The Conservation and Design Manager explained that the Council had powers that could be used to address some of the issues with the building. These measures included an Urgent Works Notice or Repairs Notice being served. There was clear guidance on enabling development to secure the future of a significant building such as this one. He explained that there were no subsidies available from any other source to get the building back into use. The Conservation and Design Manager concluded by stating that the number of units proposed had been reduced, trees on the site would be retained, as well as protecting what was there.

The Chairman moved the officer recommendation to approve the application and this was seconded by the Vice-Chairman.

A Ward Member welcomed bringing the building back into use. He asked whether the owner was duty-bound to maintain the building, and questioned whether local residents had been consulted. The Ward Member raised concern with the pressure on services/infrastructure in Halfway with the addition of 39 dwellings, particularly with the road infrastructure and healthcare provision. In terms of the financial contributions, the Ward Member considered £141,102.24 was not unreasonable. He welcomed the addition of 1,2,3 bed housing, but was not certain if this was worth reducing the financial contributions for.

A second Ward Member agreed that funds were required for improving the local roads. He considered the profit figures of 20% were unrealistic, and that between 7 and 11% was more realistic. He also considered that the loss of the Section 106 payments was to preserve profit for the developers.

A third Ward Member stated that the buildings had been bought and nothing done with them for ten years. He supported the inclusion of a Section 106 Agreement.

Members raised points which included: supported Stop Notice approach, to safeguard the condition of the building; welcomed the scheme; and needed contributions from the developer for the local community from Section 106 payments.

In response to questions, the Major Projects Officer explained that the condition in the report to ensure the listed building was repaired prior to the other housing being built, was fit for purpose. He stated that the role of CBRE was to assess the

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two viability reports, submitted by the applicant, on the Council's behalf, and that they were a robust, well known national consultancy company. The Major Projects Officer stated that in relation to the profit figure, this would be less than the figure quoted in the report, namely 20%, after the negative residual land value was taken into consideration.

On being put to the vote the motion to approve the application was lost.

Councillor Bryan Mulhern (Chairman) moved the following motion: That the application be deferred to allow officers to go back to the developers to argue the Planning Committee's case with regard to securing developer contributions, as set out at Paragraph 8.30 of the Committee report. This was seconded by Councillor Cameron Beart.

On being put to the vote the motion to defer the application was won.

Resolved: That application 16/506181/FULL be deferred to allow officers to go back to the developers to argue the Planning Committee's case with regard to securing developer contributions, as set out at Paragraph 8.30 of the Committee report.

Resolved: That application 16/506182/LBC be deferred to allow officers to go back to the developers to argue the Planning Committee's case with regard to securing developer contributions, as set out at Paragraph 8.30 of the Committee report.

427 ADJOURNMENT OF MEETING

The meeting was adjourned at 8.23pm and reconvened at 8.30pm.

428 SUSPENSION OF STANDING ORDERS

At 10pm Members agreed to the suspension of Standing Orders in order that the Committee could complete its business.

Chairman

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All Minutes are draft until agreed at the next meeting of the Committee/Panel

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PLANNING COMMITTEE – 26 April 2018**PART 2**

Report of the Head of Planning

PART 2Applications for which **PERMISSION** is recommended

2.1 REFERENCE NO - 18/500656/FULL			
APPLICATION PROPOSAL Demolition of existing garage and erection of proposed annexe and entrance gates to the rear garden.			
ADDRESS 141 Ufton Lane Sittingbourne Kent ME10 1HJ			
RECOMMENDATION Grant subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Proposed development would constitute an annexe reliant on the main dwelling and would not give rise to unacceptable harm to residential or visual amenity.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member			
WARD Homewood	PARISH/TOWN COUNCIL	APPLICANT Mr & Mrs Plumb AGENT Woodstock Associates	
DECISION DUE DATE 02/04/18	PUBLICITY EXPIRY DATE 03/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/503659/FULL	Erection of a new dwelling.	Refused, Dismissed on appeal	30.11.2015
This application was refused on the grounds that the new dwelling would lead to an undesirable form of backland development with a new dwelling to the rear of an existing property, which would be out of character with the open, large gardens and spacious appearance of the site and surrounding area. The application was subsequently dismissed on appeal.			
18/500934/LAWP RO	Lawful Development Certificate (proposed) for a loft conversion with rear dormer.	Pending consideration	
18/500938/FULL	Proposed front dormers to loft conversion	Pending consideration	

1.0 DESCRIPTION OF SITE

- 1.01 141 Ufton Lane is a two storey detached dwelling located on the western side of Ufton Lane. The rear garden has a depth of 42m and includes a pitched roof double garage, which is situated 6m from the western rear boundary of the site. The site is adjoined

by a private access road onto Homewood Avenue, which serves an area comprising of 41 garages.

- 1.02 The application site is located within the defined built up area boundary of Sittingbourne and this part of Ufton Lane includes a number of detached properties of a similar scale and design.

2.0 PROPOSAL

- 2.01 This application seeks planning permission for the demolition of the garage at the property and the construction of an annexe in its place.
- 2.02 The originally submitted plans showed a structure that spread across the full width of the garden, and provided a living room, study, bedroom and en-suite. That annexe would have measured 8.1m in width and 10.6m in length, with a maximum height of 4.2m. Access to the annexe was to be provided by a door to the rear of the building that faced onto the access road. A new, smaller garage/store was also proposed, and an existing area of hardstanding to the rear would provide parking spaces for the annexe. I considered the scale of that annexe was excessive for a development of this type. Although the annexe could be considered reliant on the main dwelling as it did not appear to provide a kitchen, there would have been ample room for a kitchen in the proposed annexe in the future. Taking this into account with the separate entrance, garage and parking spaces to the rear, the annexe could be considered to amount to a separate dwelling from the host dwelling No 141. The agent was informed of this, and subsequently amended plans were submitted that removed the study, garage and separate entrance from the annexe, and reduced the width, length and height of the proposal.
- 2.03 The amended drawings show that the proposed annexe would measure 6.8m in width and 10.4m in length, with a maximum height of 3.9m. It would contain a bedroom, dressing room, en-suite, and living room. Windows are proposed in the west.east and south elevations, and access to the annexe will be provided by a door in the east elevation.
- 2.04 The amended drawings also included proposed gates and fencing to the rear of the garden. They would measure 2m in height. The description of the application was altered to include this change, and neighbours were subsequently reconsulted on the application.

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)
- 4.02 Development Plan: Policies CP4, DM7, DM14 and DM16 of the Swale Borough Local Plan 'Bearing Fruits' 2031
- 4.03 The Council's adopted Supplementary Planning Guidance (SPG) entitled "Designing an Extension – A Guide for Householders"

5.0 LOCAL REPRESENTATIONS

5.01 During the original consultation period four objections were received from neighbours. Their comments are summarised below:

- The development will set a precedent in the area.
- There are no measurements on the proposed application. Especially those relating to the parking area adjoining the existing road.
- Entrance to Homewood Avenue is restricted to garage on No. 155 being used as hairdressing salon and cars parking on the hard standing beyond the garage. This affects cars, delivery lorries, rubbish removal vehicles and access by fire engines, and will be affected further down towards the proposed annexe.
- It will impact on properties in Manor Grove which meet the last row of garages.
- It will lead to further increased traffic in an area designed for garaging only.
- Previous application was declined after appeal.
- This application is another way of achieving a separate dwelling in the garden.
- Annexe could be rented out.
- 141 Ufton Lane is a minimum 3 bedroom house, why is the annexe required
- Would impact the safety and privacy of existing resident's properties with new residents and visitors.
- Increased noise from additional residents.
- Fire engine would not fit down the access road and the safety of residents/renters of the annex cannot be guaranteed.
- It would be an intrusion to our lives, safety, privacy and peaceful community.
- Loss of privacy for No. 139.

5.02 The applicant provided comments in reply to the objections received. Their comments are summarised below:

- Agree that selling the proposed annexe as a separate dwelling is not acceptable.
- Confirm the proposed annexe is for mother and father-in-law to live in, who are both retired.
- They are not the same people who applied previously for a separate dwelling in this garden.
- There is not a spare room in the main dwelling for the in-laws to live in.
- The driveway to the front of 141 Ufton Lane, which has reduced the need to use the rear access. The proposed annexe will only lead to one vehicle requiring access to the rear.
- We have always been entitled to use the rear driveway, and this access is used by all home owners in this area of Ufton Lane for access and parking and has never caused any problems to my knowledge.
- Regarding fire engine access, the annexe can easily be reached from the front of the property, on average fire engine hoses are 80m long.
- A contract could be signed by ensure the annexe is not sold separately to the house.

5.03 Following the re-consultation period on the amended plans, a petition was received from eight neighbouring properties. Their comments are summarised below:

- Regarding the inability of fire engine access to the rear of the property, as part of the previously refused application for a new dwelling in the rear garden, it was proven that access was difficult. It was a key reason for the rejection of previous applications and it needs to be taken seriously.

- Potential access for fire engines from the front of the house does not invalidate the above concern given the distance and time lost in gaining this access, and the likely damage that could be sustained to neighbouring constructions while awaiting remedial action.
- Noting Mr Plumb's comments, if this application is required due to the lack of a spare bedroom, we expect it to be withdrawn should the recent application for a loft conversion be approved. A loft conversion would provide a much safer space with all the amenities required for the accommodation of their parents.
- Extend thanks to Mr Plumb for the offer of a contract regarding the retention of the "annex" as part of the existing address upon resale. However it doesn't negate our concern as to its future use and possible separation from the property once Mr Plumb has moved on.
- If the plan was to extend the current property to include additional ground floor accommodation attached to the existing house there would have been no objections from us.

5.04 As we had received a total of five objections to the proposal, I contacted the relevant Ward Members and asked whether they would wish the application to be called in to be heard at the Planning Committee, as per the Council's Constitution. Councillor Truelove subsequently stated the following:
 "I am very concerned about the access to the rear of this property. I would like the application to be considered by members of the planning committee."

6.0 CONSULTATIONS

6.01 KCC Highways and Transportation were consulted on the application, and they stated the proposal does not meet the criteria to warrant involvement from the Highway Authority.

6.02 Natural England raises no objections.

7.0 BACKGROUND PAPERS AND PLANS

7.01 Application papers for application 18/500656/FULL.

8.0 APPRAISAL

Principle of Development

8.01 The application site lies within the built up area boundary where the principle of development is accepted, subject to the relevant policy considerations. The main considerations in this case concern the impact to visual and residential amenity, the use of the proposal as an annexe and the impact of the loss of the garage as a parking space.

Visual Impact

8.02 The annexe will not be visible from Ufton Lane, but will be visible from the access road at the rear of the garden. Following amendments, I consider the annexe is relatively small in scale and note that as it is only single storey, it will not amount to a prominent structure. Taking into account it faces onto an access road, I consider the proposal will not adversely impact the visual amenities of the area. I also note the proposed gates will screen much of the annexe from view. Members may also note that, with a slight reduction in height, such a building could potentially be constructed under

permitted development rights. I believe the proposed gates and fencing to the rear boundary of the garden are acceptable, as again they will only be visible from the access road off of Homestead Road.

Residential Amenity

- 8.03 The proposed annexe will be situated a minimum of 23.4m from the properties either side of No. 141 Ufton Lane. I note this is in excess of the amount recommended in the Council's adopted SPG, which suggests a distance of 21m between windows to the rear elevation and windows of properties to the rear. Taking into account the annexe will only be single storey and noting the fence along both the side boundaries of No. 141 I consider any overlooking that might occur will not be significant.
- 8.04 There is a proposed window in the side elevation of the annexe, and the Council usually require windows in side elevations to be obscure glazed to prevent mutual overlooking. However in this case, taking into account the window will face the rear of the garden at No. 143, and noting the fence along the common boundary, I do not consider there will be any serious overlooking issues here.
- 8.05 As the annexe will be situated at the rear of the garden at No. 141 and the fact it is single storey, I do not consider it will give rise to any unacceptable overbearing or overshadowing impacts upon neighbouring properties.
- 8.06 I note that objections have been raised about the potential for the use of the annexe to cause additional noise. However due to the significant distance between the main dwellings along Ufton Lane and the proposed annexe, I do not consider any noise generated by the use of the annexe will be unacceptable. Furthermore there could be a certain degree of noise from the use of any ancillary building here, such as a shed or workshop, and I do not consider that normal residential use of the site would be so intrusive in terms of noise and disturbance as to justify a reason for refusal.

Use as an Annexe

- 8.07 Following amendment, the proposed annexe will contain a bedroom, dressing room, en-suite and living room, accessible from the rear garden of the host building, and would constitute an annexe dependant on or ancillary to the main house. I consider that the amount of accommodation being proposed is at such a level that it will be dependant on the main dwelling, and as such cannot be used as a separate dwelling in its own right.
- 8.08 I consider that the use of this structure as an annexe is acceptable and recommend imposing condition (4) below which restricts the use of the building to purposes ancillary and/or incidental to the use of the dwelling. The main concern raised by neighbours relates to the proposed annexe being used as a separate dwelling. This concern could come from the history of the site, namely the refused application for a new dwelling in the rear garden of No. 141 (ref. 14/503659/FULL). However I consider the design of the annexe following amendment clearly demonstrates the annexe will not constitute a new dwelling, and I also believe the imposition of the relevant condition below will ensure it is not used as one.

Parking

- 8.09 The loss of the garage as a parking space needs to be considered. I note to the front of No. 141 there is block paving that provides parking for two vehicles. There is also existing hardstanding to the rear of the garden, which would provide parking for at

least one vehicle. The property is currently a 3 bedroom house, and according to the Kent Design Guide Review: Interim Guidance Note 3 20 November 2008 – Residential Parking, two car parking spaces are required for a house of this size in this location. As such, the parking provision at the property is in line with this and therefore I consider the loss of the garage at the property is acceptable.

- 8.10 The proposed gates to the rear garden of No. 141 could impact on highway safety. However, taking into account they are situated on an access road, I do not consider that gates set on the rear boundary of the garden will be detrimental to highway safety on this quiet access road.
- 8.11 Regarding the concern raised by neighbours that the development may lead to increased traffic on the access road to the rear of the dwelling, I note this road is available for use by all dwellings on this section of Ufton Lane, some of which also have garages to the rear of the their properties . I do not envisage the proposal will lead to any additional traffic that the access road cannot support.

Other Matters

- 8.12 Neighbours raised concern about emergency vehicles gaining access to the annexe. However this is not a material planning consideration so should not be given much weight in consideration here. Objections have also suggested that the annexe is not required as an application for a loft conversion at the host property has been submitted and this will provide additional living space within the existing dwelling at No 141. Nonetheless this application needs to be judged on its own merits, and how many bedrooms the existing property at no 141 currently has or will have has no bearing on the consideration of this current planning application.

9.0 CONCLUSION

- 9.01 On the basis of the above, I consider that the proposal is acceptable in terms of its impact upon the visual and residential amenities of the area. Following amendment, I believe the proposal now clearly constitutes an annexe dependant on the main dwelling and therefore, I recommend planning permission be granted.

10.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) The materials to be used in the construction of the external surfaces of the annexe hereby permitted shall match those listed on the application form.

Reason: In the interests of visual amenity.

- (3) The development hereby approved shall be carried out in accordance with the following approved drawings: SI/17/154.02 Rev A, SI/17/154.03 Rev A and SI/17/154.04 Rev A

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

- (4) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary and/or incidental to the residential use of the dwelling known as 141 Ufton Lane.

Reason: As its use as a separate unit of accommodation would be contrary to the provisions of the development plan for 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 applicant/agent was advised of minor changes required to the application and these were agreed and submitted.

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

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



2.2 REFERENCE NO - 17/506151/FULL		
APPLICATION PROPOSAL Construction of 6no. affordable houses and 2no. open market bungalows with new access.		
ADDRESS Land at Leaveland Corner Leaveland Faversham Kent ME13 0NP		
RECOMMENDATION – Grant SUBJECT TO: Completion of a Section 106 Agreement to secure the affordable housing tenure and local nomination arrangements, to appropriate conditions		
SUMMARY OF REASONS FOR RECOMMENDATION Proposal is in accordance with policies regarding affordable housing		
REASON FOR REFERRAL TO COMMITTEE Local Objections		
WARD East Downs	PARISH/TOWN COUNCIL Leaveland	APPLICANT English Rural Housing Association AGENT Lee Evans Partnership
DECISION DUE DATE 31/01/18	PUBLICITY EXPIRY DATE 05/01/18	

1.0 DESCRIPTION OF SITE

- 1.01 The site constitutes the corner of a ploughed arable field, situated immediately to the northwest of the junction between the A251 Ashford Road and Leaveland Lane. The front of the site facing onto Leaveland Lane has a line of mature trees and shrubs. There is also a water booster enclosure, bus stop and bus shelter to the front of the site.
- 1.02 To the southwest there is an existing linear development of former Airey houses fronting the lane. Once past the houses, the lane leads on to St Laurence Church and Leaveland Court, both of which are listed buildings. Across the field to the north, at a distance of approximately 200 metres, there are further existing dwellings in Bagshill Road and Millens Row
- 1.03 The site is outside any established built-up area boundary but within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.04 According to the Swale Landscape Character and Biodiversity Appraisal, the site is situated within the Sheldwich and Leaveland Farmlands Character Area, where the condition of the landscape is said to be 'moderate' and the advice regarding development is to 'conserve and create'.

2.0 PROPOSAL

- 2.01 The proposal is for the construction of six new affordable houses and two market housing bungalows. It is intended as a joint project to meet rural affordable housing needs in both Throwley and Sheldwich, Badlesmere and Leaveland (SBL) parishes.
- 2.02 The six affordable homes would each have two bedrooms, with associated front and rear gardens, and each property would also have two allocated parking spaces. The

submitted drawings also show two visitor parking spaces. All six affordable homes are designated for affordable rent.

- 2.03 The two market housing bungalows would each have three bedrooms, with associated front and rear gardens. They would also each have a single detached garage and two further parking spaces, and would provide capital from their sale to partially offset the construction of the affordable homes.
- 2.04 The proposed design of the properties is fairly orthodox, but following the submission of revised drawings, it does now include pleasing architectural features such as brick arches over windows and doors, traditional timber joinery, and reformed stone sills to all windows.
- 2.05 The proposed site layout plan shows that most of the existing trees to the front of the site would be retained, save for six trees (two of which are in poor condition), which would be removed to provide a new access to the site. The drawing also shows proposed planting of trees and native hedging on the northern/north-western boundary and on the eastern/north-eastern boundary. A 5m wide part of the site along its south west boundary adjoining the neighbouring houses would be left as a badger corridor.
- 2.06 The proposal is comprehensively prepared and is supported by a vast array of documents including a Statement of Community Involvement, a Design and Access Statement, a topographical survey, a drainage plan, an access survey and tracking plan, an ecological scoping report, a bat survey, a reptile survey, a snail survey, historic maps, a traffic speed survey, Housing Needs Surveys for both Throwley (2013) and for Sheldwich, Badlesmere and Leaveland (SBL) (2012) parishes, a site selection survey, a tree survey, an engineering report, and a Planning Policy Statement. As the proposal is for rural exception site affordable housing, a draft Section 106 Agreement also accompanies the proposal.
- 2.07 The Housing Needs Surveys show that housing costs in these parishes are high and that in Throwley there from 5 adults and 1 child there is a need for 2x1 bedroom homes and 1 x 2 bedroom homes, whilst in SBL that need from 7 adults and 2 children is calculated as 2x1 bedroom homes, 1 x 2 bedroom homes and 1 x 3 bedroom homes. In total that adds up to 7 properties across the two parishes

In Throwley the situation is summarised as;

'High property prices and a predominance of privately owned homes means that some local people are unable to afford a home within the parish. This problem is exacerbated at present as tighter restrictions are being placed on mortgages by lenders; the result of the current economic climate. For a first time buyer an income of approximately £43,702 per annum and a deposit of £26,993 is needed to buy the cheapest property available in the parish, which, at the time of writing the report, was a 2 bedroom house for £179,950. To be able to afford to rent privately an income of £43,200 is required for the cheapest and only property available which was a 3 bed bungalow for £900pcm.'

In SBL, the situation is similar, and is summarised as;

"High property prices and a predominance of privately owned homes means that some local people are unable to afford a home within the parish. This

problem is exacerbated at present as tighter restrictions are being placed on mortgages by lenders; the result of the current economic climate. For a first time buyer an income of over £84,000 per annum and a deposit of over £52,000 is needed to buy the cheapest property available within the parish, which, at the time of writing the report, was a 3 bed detached bungalow for £349,000; there were no 1, 2 or 3 beds available. To be able to afford to rent privately an income in excess of £34,000 is required for the cheapest property available which was a 3 bed house for £725pcm. Only three properties were found to rent privately in the area; there were no 1 or 2 beds available."

- 2.08 The applicants have also submitted a short report relating to site selection. This refers to eight separate sites (some suggested by Swale Planning Officers) that have been examined to meet the housing need identified. These sites range from next to Sheldwich Village Hall, or adjacent to Sheldwich school, to sites next to Throwley Church and at Badlesmere Lees. The reason for selecting this site is described as;

"Site 4. Land at Leaveland Corner – SBC felt that the site was situated somewhat apart from community facilities and was fairly prominent on the landscape and that there was possible environmental damage to trees. However, their initial comments made in October 2013 were that it was 'worth consideration'. These comments were made without visiting the sites and in October 2014, having inspected the sites they commented that 'on reflection' it was 'not recommended'. Enquiries by the RHE [Rural Housing Enabler] prior to the October 2014 comments established that the landowner was willing to sell in principle. The Parish Councils supported the site and felt it could be successfully screened from the road with planting and that there would be no damage to existing trees. The site is situated next to a small development of social housing owned by SBC (although some properties have now been sold under right to buy). The tenant farmer was willing to release the land."

and

"After assessing the suitability and/or availability of the sites, Site 4 was considered the most suitable, available site for development and was the Parish Councils' preferred site. English Rural was asked to carry out a feasibility and viability appraisal for consultation with the Parish Councils and wider community."

- 2.09 The submitted Design and Access Statement explains that the applicants are a specialist Registered Social Landlord, a not for profit organisation, and are registered with the Homes and Communities Agency. Its states that the site was chosen after a Local Needs Housing Site Selection Process and in conjunction with local authority planning officers. The site layout has been designed to relate to neighbouring dwellings, with generous front gardens to match those next door. The market housing units are said to be necessary to render the overall scheme viable and is in accordance with paragraph 54 of NPPF and Local Plan policy DM9. The draft Section 106 Agreement is intended to ensure that not more than half the market housing is occupied until a contract has been entered into for the transfer of the affordable housing to an Affordable Housing Provider. It also provides for the affordable housing to be restricted to that tenure and that a nomination agreement be entered into for occupants to be nominated by the Council.
- 2.10 The application is further supported by a Development Viability Appraisal (DVA), which seeks to prove that open market housing is required to make the provision of the affordable housing economically viable. The DVA incorporates the use of a

Development Appraisal Tool (DAT), which is a nationally recognised site specific viability tool that, in addition to informing the development management process, also serves as a communication tool helping to demonstrate the economic viability of individual projects. The DAT is an 'Open Source' cash flow model, with all parties able to view data and computations supporting a collaborative approach. Taking account of assumptions or actual figures relating to costs, values and reasonable developers' oncosts and profit, the DAT can be used to establish the levels of affordable housing and any s106 requirements that can be supported by a scheme. The conclusion of the DAT is that the even with the inclusion of the expected profits from the proposed two market housing bungalows, the project would still have a financial shortfall of £188,549, although the applicant intends to make a bid to the Homes and Communities Agency for a subsidy of £180,000.

- 2.11 Finally, recently received amended drawings show a slightly amended site layout, incorporating the changes required by Kent Highways and Transportation and associated changes to protect established trees.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Approximate Ridge Height (m)	N/A	9.2m (houses) 5.8m (bungalows)	+9.2m/+5.8m
No. of Storeys	N/A	2 and 1	2 and 1
Parking Spaces	N/A	18	+18
No. of Residential Units	N/A	8	+8
No. of Affordable Units	N/A	6	+6

4.0 PLANNING CONSTRAINTS

Area of Outstanding Natural Beauty KENT DOWNS
Outside established built-up area boundaries

5.0 POLICY AND OTHER CONSIDERATIONS

- 5.01 The National Planning Policy Framework (NPPF): Paragraphs 7 (Sustainable Development); 54 (Affordable Housing in Rural areas); 112 (Agricultural Land); 115 (Areas of Outstanding Natural Beauty). Paragraph 54 relates specifically to rural housing and states;

In rural areas, exercising the duty to cooperate with neighbouring authorities, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs.

- 5.02 Bearing Fruits 2031: The Swale Borough Local Plan 2017 (Bearing Fruits) : Policies ST1 (Sustainable Development); ST3 (Swale Settlement Strategy), CP3 (Delivering high quality homes), CP4 (Good Design), DM7 (Parking), DM9 (Rural Exceptions Housing), DM19 (Sustainable design and construction), DM24 (Valued Landscapes)

DM28 (Biodiversity and Geological Conservation) and DM29 (Woodlands, Trees & Hedges).

- 5.03 Of particular relevance to this case is policy DM9 (Rural Exceptions Housing) which reads, in full, as follows:

“Rural Exceptions Housing

Planning permission for affordable housing to meet local needs in rural areas will be granted provided:

- 1. The site accords with Policy ST3 and/or is in a location where access to day to day services can be conveniently and easily achieved;*
- 2. The site and proposed development would not have a significant adverse impact upon the character of the settlement, the surrounding countryside and the amenity of the existing community;*
- 3. A need for the scheme is clearly justified by the applicant, to the satisfaction of the Council, by providing the following to accompany a planning application:*
 - a. An up-to-date parish or village housing need assessment undertaken or carried out by a recognised and appropriate body;*
 - b. A thorough site options appraisal; and*
 - c. A prepared statement of community involvement that has sought to include the significant input of the Parish Council.*
- 4. In addition, for schemes including unrestricted market houses/plots for sale, justification will be provided by the applicant:*
 - a. To demonstrate that a scheme not relying on market housing has been considered and why it has been discounted or considered to be unviable; and*
 - b. As to a number and types of housing proposed, which will be determined by the housing needs assessment and through an appraisal of viability to show the minimum provision of unrestricted market homes necessary to deliver a significantly greater proportion of local affordable houses for that site.*
- 5. Proposals will be subject to a legal agreement that provides for the permanent control and management of any affordable housing to ensure its long term retention for local need.”*

6.0 LOCAL REPRESENTATIONS

- 6.01 The Faversham Society supports the proposal, commenting as follows:

“These proposals should be SUPPORTED because the Parish Councils have jointly been working with English Rural Housing Association to agree a site suitable for the provision of Affordable Housing for the group of parishes. The designs are acceptable in their context and the landscaping will preserve the character of the area.”

- 6.02 An email of support has also been received from the Rural Housing Enabler from Action with Communities in Rural Kent, who has prepared some of the reports submitted as part of the application. Her comments are;

“As the Rural Housing Enabler from Action with Communities in Rural Kent, I support this application. A need for affordable housing from local people was identified by housing need surveys previously undertaken. Local needs housing schemes are assets to communities because they enable people to remain in

their community if they cannot afford open market housing prices. A scheme such as this in a village provides affordable housing in perpetuity for the benefit of people from the community who require affordable housing."

6.03 Eighteen letters and emails of objection from eight separate addresses have been received. The comments therein may be summarised as follows:

- The application does not make the type of affordable housing clear; will they be shared ownership or for rent for profit to those from outside the local area?
- How many people within the parishes are actually interested in renting?
- Who is going to pay the rent if local rents are not affordable?
- Have the properties already been assigned to local people or will the properties be made available to local people only in the first instance?
- The survey is six years old and out of date
- Current services (water, electricity) are already at capacity
- Represents a large increase on the number of houses in Leaveland Parish (17 to 20%)
- The site lies in Leaveland Parish, and has nothing to do with Throwley. Land is available in Throwley for these houses
- We are in the Parish of Leaveland, not Sheldwich. Combining Leaveland and Badlesmere with Sheldwich makes the 8 new dwellings seem like a small number over a much wider geographical area
- Design poor and not Kentish in vernacular
- Why were only certain properties consulted? Those in Bagshill Road were not
- Why was consultation arranged over the Christmas period when people have other matters on their minds?
- Was a planning notice erected and if so where?
- Why has the Parish Council not consulted us? – this does not look like a community project. The referendum process may not have been applied correctly and is legally misleading
- The site is within the AONB. *'Are these designations no longer valid?'*
- My deeds say that this is an area where development is not allowed
- The Kent Downs AONB Unit has not been consulted, but Natural England has been; Natural England are based in Crewe; how relevant is Crewe to Leaveland?
- Why is another access required?
- Are the proposed parking provisions adequate?
- Who will pay for the increased service infrastructure?
- Will increase wear and damage to local roads
- Public transport is poor. Recent report of the local 666 'bus service being cut
- Southern Water has objected to the application (*NB. Southern Water have not*)
- Additional vehicle movements would create safety issues on the A251
- New Access *'is an accident waiting to happen'*
- Road is dangerous for cyclists
- Recent accident at junction (6th January) confirms the concern over highway safety
- Where will builders, workmen, deliveries, park? Works might disrupt bus services, including school buses and the footpath to the bus stop from Bagshill Road
- If application is approved, stipulations should be made to prevent the bungalows being turned into houses
- If approved, more applications will follow
- Leaveland has nothing to offer growing families
- Local school is already over-subscribed
- This is a major development which will set future precedent

- Site is in a prominent position with a high elevation so the properties will be seen for miles around
- Loss of views
- Leaveland is not a village: it is a small scattering of farm houses, a few other houses and bungalows and a strip of council houses
- *'The main reason for the movement of people out of the rural areas is a lack of work, not the high price of local property. This has always been the case in towns and villages not only in this country but all over the world. What happens is the population moves to where the work is and makes its home there. Over our working lives we worked very, very hard to have a house like this, I lived in the countryside too, but to get enough money to purchase a house, as a youngster I had to move to where my work was in London, then earn enough money to come back, get married and buy a small house here. I wasn't "driven away" by high property prices, I just accepted a basic fact of life and got on with it.'*
- Land is grade 1 agricultural land and is not designated for housing
- *'I have now seen a few letters of support in relation to this proposed development from people who firstly do not live close to, or in the area, of the intended site (therefore it's approval would not affect them in any way what so ever) and secondly and most importantly are obviously unaware or oblivious of the dangers on that stretch of road namely the A251 Leaveland Corner Bend.'*

6.04 Four letters and emails of support have been received, two from the same address. Their contents may be summarised as follows:

- Private rents are too high for some local people
- *'I feel the development would be welcomed by less fortunate people who do not own their own homes as it would be nice to still live within the village at an affordable rent'*
- The junction at Leaveland Corner has clear sight lines in both directions, unlike that at Baghill Road which is a blind bend
- *'A potentially valuable resource for the local population which has evolved out of needs surveying.'*
- Houses for local people are greatly needed in this area
- Some objectors forget that they have themselves purchased agricultural land from the same field to enhance their property only as garden
- This is an ideal location for young people with families or the elderly as it is on the bus route so very convenient
- Much agricultural and commercial development in the area has been allowed
- *'These houses are for people to be able to live in and stay in the area that they have lived and worked in, and still work. Why shouldn't they be given the opportunity to carry on living where they belong?'*

7.0 CONSULTATIONS

7.01 Throwley Parish Council supports the application, stating;

"Throwley Parish Council have strongly back this much needed this much needed development, we hope that Swale Borough Council will approve this application so we can fulfil a very necessary requirement in Throwley and the adjoining parishes."

7.02 Sheldwich, Badlesmere and Leaveland Parish Council also fully supports the application and feels that the proposed dwellings will be a valuable asset to the community.

- 7.03 The Council's Housing and Health Manager notes that *'Housing Services support the application for an affordable rural housing scheme at Leaveland'*.
- 7.04 Natural England raises no objection to the proposal, and recommends that their Standing Advice should be adhered to.
- 7.05 KCC Flood and Water Management raises no objection as it falls outside their remit of schemes of at least 10 dwellings.
- 7.06 Southern Water raises no objection.
- 7.07 Kent Highways and Transportation (KHT) have raised no objection with regards to highway safety issues on the A251. However, they originally raised some concerns with regard to the proposed parking and turning areas, and in relation to widening the lane and a possible footpath on the site frontage. The applicant has been in conversation with them to discuss ways forward and these issues have now been resolved to the satisfaction of KHT.
- 7.08 KHT also requested a speed survey to determine relevant visibility splays. This survey has been provided and they have confirmed that the necessary splays can be provided.
- 7.09 After initial concerns regarding the impact of the access and parking arrangements on important trees, the site layout has been amended to position these hard surfaces outside the root protection areas of these trees. The Council's Tree Consultant now raises no objections, subject to the conditions included below.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 Application papers and drawings as submitted under planning reference 17/506151/FULL.

9.0 APPRAISAL

- 9.01 Firstly, it should be noted that immediate neighbours were consulted as part of the Consultation process. Addresses in Bagshill Road (where the majority of objections are from) were not directly consulted due to their distance from the site (approximately 200 metres). However, a Site Notice was posted adjacent to the site, and an advertisement was published in the local press.
- 9.02 The main issues to consider in this case appear to be those of the principle of development; visual and residential amenity; and highway safety. I will consider each of these in turn.

Principle of Development:

- 9.03 As noted above, the site is situated within the Kent Downs AONB and outside any built-up area boundary, where policies of rural restraint usually apply to restrict residential development in the countryside. However this proposal is for cross-funded rural exception affordable housing, where policy DM9 of the Bearing Fruits applies, making this a potential exception to normal rural restraint policies.
- 9.04 The preamble to policy DM9 includes the following words;

'The Council, together with rural housing partners, recognise that in order to tackle these challenges, there is a need to increase affordable housing within rural areas and that a flexible approach to meeting local housing need is required. There is national planning policy support for departing from the previous policy approach to restrict sites solely to affordable housing, to allow some unrestricted market homes for sale, including plots for sale for local self build. This should help both to increase affordable housing completions and to allow for more mixed and sustainable rural communities. In turn, this will provide the right housing to support stronger communities and to sustain rural areas in ways that respects their character.'

- 9.05 Policy DM9 states that planning permission for affordable housing to meet local needs in rural areas will be granted, provided that the proposal is in accordance with certain requirements. The present proposal is in accordance with those requirements but to ensure that the properties remain available for local needs and to accept the inclusion of market housing a Section 106 Agreement will be necessary before any planning permission can be granted.
- 9.06 The submitted Development Viability Assessment has been carefully put together and as referred to above it states that, even with the inclusion of the two market housing bungalows, there would still be a shortfall of funds, and the applicants intend to submit a bid for funding to the Homes and Communities Agency to cover the shortfall. As such, I am satisfied that the level of market housing included within the proposal is the minimum amount necessary to allow for the construction of the affordable housing.

Visual and Residential Amenity:

- 9.07 The original design drawings submitted required some improvement, as the proposed dwellings lacked some finer detailing, and the proposed roofing materials would have represented a poor finish. The applicant has responded positively to these concerns and incorporated some design and materials changes which I consider renders the design approach acceptable. This is particularly important when noting that the proposed development would be on a prominent corner, even though the site would be screened from the south by existing trees and from other directions by proposed landscaping.
- 9.08 I note the objections raised by residents in Bagshill Road, and note that those properties would be situated between approximately 180 metres and 260 metres away from the boundaries of the proposed site. As such, I am of the opinion that the distance between the existing and the proposed properties means that the development would have a negligible effect on the residential and visual amenity of those residents, in terms of scale and distance. The development would sit alongside existing frontage development and will not appear isolated. Retention of frontage trees will limit the landscape impact of the new dwellings. The amended drawings showing which existing trees are to remain now conform to what the Council's Tree Consultant had requested; that the proposed driveways and parking areas were completely relocated away from the trees' root protection areas (RPAs). It should be noted that the applicant and agent have responded positively to all such requests for amendments.
- 9.09 I acknowledge the comments made with regard to service provision (electricity, water, etc.), but this is a small development and I consider that there is no reason to see this as an overriding problem. There have been no objections from Statutory Undertakers to the application.

- 9.10 From my own research, it does appear that the local bus service was due to be reduced, but it seems from the local news that this decision was reversed by KCC on January 15th. As such, the site is still linked by public transport to both Faversham and Ashford.
- 9.11 The site falls within the Sheldwich and Leaveland Farmland landscape character area designation, where the condition of the landscape is 'moderate' and the advice with regard to development is to 'conserve and create'. I accept that the site is prominent within the AONB and I was initially reluctant to countenance its development, preferring instead to ask the Parish Councils to look at sites close to Sheldwich Lees or Badlesmere Lees. This they have since done, and after a more extensive site search, they have returned to this site. Despite my continuing reservations about the potential landscape impact of this site I recognise the fact that the identified need has been properly researched as the Council seeks. The site's frontage offers substantial screening and more landscaping can be provided at the rear to soften the likely impact, and the site is next to existing development in an accessible location. Accordingly, I have concluded that the other merits of the scheme justify its support. I would therefore contend that the proposal is in accordance with this important supplementary planning guidance.

Highway Safety

- 9.12 Whilst Kent Highways and Transportation Officers had some concerns over the new access, those concerns are being explored and I believe have now been overcome, and at no time have KHT objected to the application due to additional traffic on the A251. As such, noting their expert opinion, and I therefore conclude that the proposal, if approved, would not have any significant adverse impact on highway safety and amenity.

10.0 CONCLUSION

- 10.01 In view of the above, I recommend that the application be delegated to Officers to approve the application, subject to the signing of a suitably worded Section 106 Agreement with regard to the affordable housing status of the six houses, and the conditions noted below.

11.0 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.

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

- (2) The development hereby permitted shall be carried out in complete accordance with the following plans:

08210-(00) 100 Rev A
 08210-(00) 102 Rev E
 08210-(00) 103 Rev G
 08210-(00) 200 Rev I
 08210-(00) 203
 6560/100 Rev F
 6560/101 Rev H
 08210 – (00) 202 RevB and

FV03515-01 Rev G

Reason: 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.

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

- (4) Prior to the commencement of development, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

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

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

- (6) No development shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

- (7) All construction activities, tree protection, access facilitation pruning and pre-emptive root pruning shall be carried out in accordance with the approved recommendations of Arboricultural Addendum report (ref. 170305 v4 ADDENDUM dated 6 April 2018), unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (8) The development hereby approved shall not proceed beyond slab level until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting comprising native species to mitigate any loss of amenity and biodiversity value together with the location of any habitat piles and include a planting specification, and a five year management plan. The landscape scheme shall specifically address the need to

provide adequate planting to screen the proposed garden boundary fencing when viewed from surrounding roads.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (9) No occupation of any dwelling hereby permitted shall commence until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (10) Any existing trees or hedges retained on site which, within a period of five years from the first occupation of any dwelling, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss, in accordance with details approved writing by the Local Planning Authority.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (11) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of the amenities of the area and highway safety and convenience.

- (12) 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.

- (13) No dwelling hereby approved shall be occupied until the carriageway widening across the site frontage as indicated on drawing 6560/100 Revision F has been carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

- (14) The areas shown on drawing 08210-(00) 200 Rev I as vehicle parking spaces shall be provided before any dwelling is occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to parking inconvenient to other road users and be detrimental to highway safety and amenity.

- (15) The garages hereby permitted shall be used only for the parking of a private motor car or cars or for uses ordinarily incidental to the enjoyment of the occupiers of the respective dwelling house.

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

- (16) Before the first occupation of any dwelling the following works between that dwelling and the adopted highway shall be completed as follows:

- i. Carriageways completed, with the exception of the wearing course,
- ii. highway drainage.

Reason: In the interests of highway safety.

- (17) No dwelling permitted shall be occupied until the visibility splays shown on drawing 08210-(00) 200 Rev I have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. These visibility splays shall thereafter be maintained free of obstruction of any such obstruction at all times.

Reason: In the interests of highway safety.

- (18) No dwelling shall be occupied until each has been provided with a shed for cycles to be securely sheltered and stored.

Reason: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of sustainable development and promoting cycle visits.

- (19) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling.

Reason: In the interests of visual amenity.

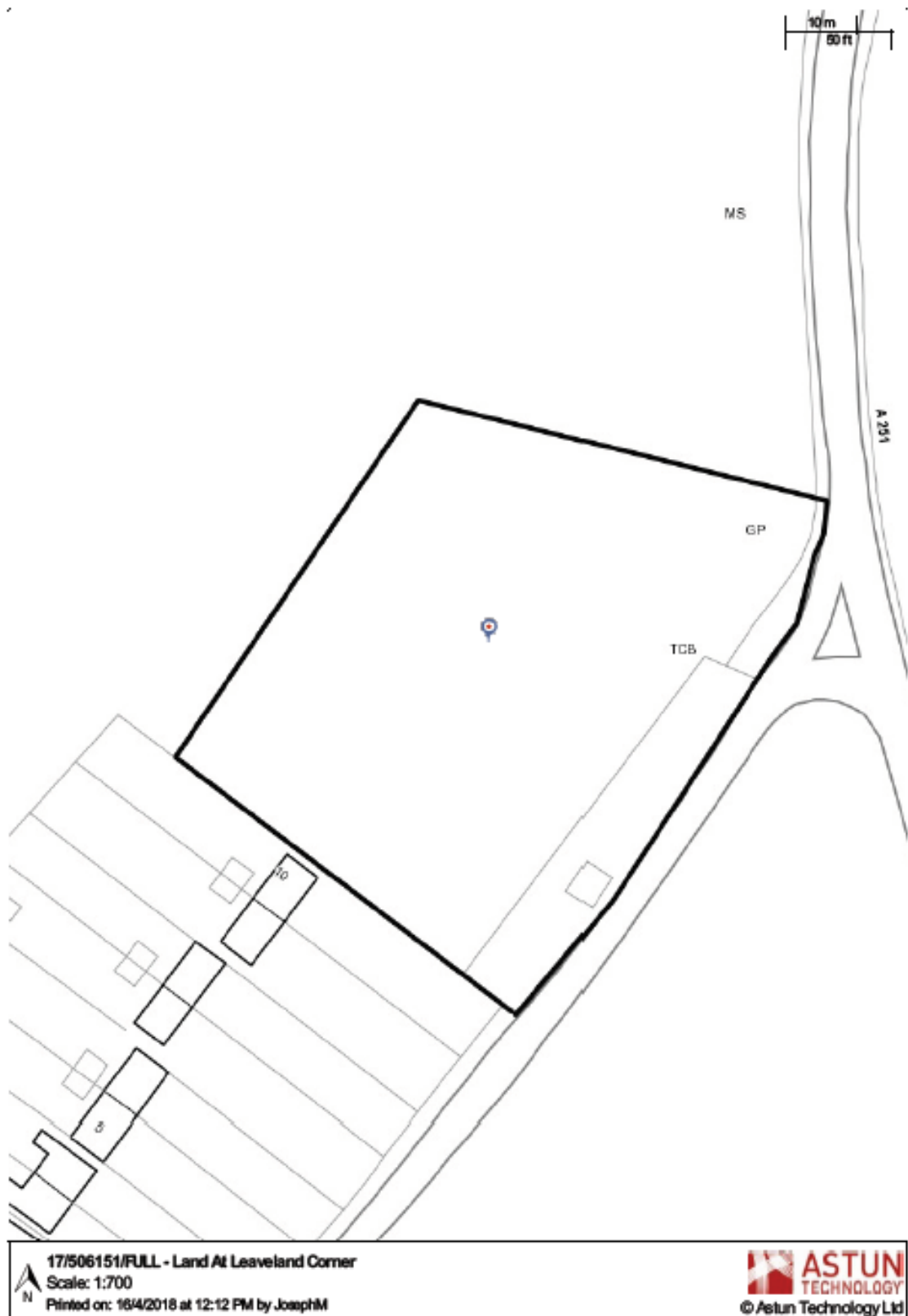
Council's Approach to the application

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 applicant/agent was provided with formal pre-application advice, the proposal was acceptable once new drawings showing amendments to the proposed homes and driveways was submitted.

The applicant/agent had the opportunity to speak at the Planning Committee to support 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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2.3 REFERENCE NO - 17/504618/FULL			
APPLICATION PROPOSAL Amendments to previously approved scheme (reference 14/502055) additional single storey rear extension, increase in roof height provision of flat roof element, increase in pitch of hips, additional front and rear facing roof lights, provision of pitched roofs over front facing bay windows.			
ADDRESS 6 Park Avenue Sittingbourne Kent ME10 1QX			
RECOMMENDATION Grant subject to the receipt of amended plans, and any additional representations received (closing date 25 th April).			
SUMMARY OF REASONS FOR RECOMMENDATION The development does not cause unacceptable harm to visual or residential amenity.			
REASON FOR REFERRAL TO COMMITTEE Called in by Ward Member			
WARD Woodstock		PARISH/TOWN COUNCIL N/A	APPLICANT Mr Robert Ingram AGENT
DECISION DUE DATE 18/01/18		PUBLICITY EXPIRY DATE 25/04/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
14/502055/FULL	Two Storey side extensions to both sides of dwelling, roof extension and loft conversion with associated dormers and roof lights. Detached garage and workshop with first floor play room and washroom to front of property	Approved	22.12.2015

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 6 Park Avenue is a large, detached two storey house, located in the built up area of Sittingbourne. It is set back from the highway by approximately 21 metres, with parking to the front.
- 1.02 Access to the King Georges Field recreation ground lies to the east of the site, and the recreation ground itself lies to the rear. To the west, nos 2B and 4 Park Avenue, a pair of semi-detached houses, are set substantially closer to the highway than no.6.
- 1.03 As set out above, planning permission was granted under reference 14/502055/FULL for two storey side extensions to both sides of the dwelling, for a loft conversion with dormer windows and roof lights, and for a large detached garage to the front of the dwelling. The garage is currently under construction, and the dwelling has been extended. The eastern extension has not been constructed. However – the remaining development as built differs from the approved plans in a number of ways, (as does the development yet to be constructed) as set out below, such that planning permission is required, and hence why this current application has been submitted.

2.0 PROPOSAL

- 2.01 The description of the development has recently been amended (the previous description was vague and did not adequately describe the proposals). Neighbours have been reconsulted and the closing date for any further comments is 25th April.
- 2.02 The proposed development amounts to amendments to the design of the approved scheme, together with additions – specifically:
- Pitched roofs above the (approved) flat roof front facing bay windows;
 - Continuation of the ridge height of the original dwelling across part of the western side extension;
 - An additional front facing roof light;
 - Two additional rear facing roof lights;
 - A steeper pitch to the hips to both the eastern and western extensions;
 - The use of the roof of an existing first floor rear extension as a balcony, with accompanying railings etc;
 - Facing materials have been changed from brick and tile to render and slate grey tiles.
- 2.03 The proposed single storey rear extension, which projects to the rear of the western side extension, measures 4 metres deep, (matching the depth of the existing flat roof extension) 5.1 metres wide and 3.3 metres in height (matching the height of the existing rear extension).
- 2.04 Together with the additions set out above, other minor changes include a small reduction to the ridge height of the dwelling, as set out (and highlighted) below:

	Approved (14/502055/FULL)	Proposed
Eastern two storey side extension (yet to be constructed)	5m wide, 8.8m deep, and 10.2m to ridge height	5m wide, 8.8m deep, 9.9m to ridge height
Main ridge height of dwelling	Increased from 9.7m to 10.2m	Increased from 9.7m to 9.9m
Western two storey side extension	7m wide, 9m deep and 8.6m to ridge height	7.1m wide, 13m deep (incorporating the additional rear extension) , 8.6m to ridge height

3.0 PLANNING CONSTRAINTS

- 3.01 Trees to the front and eastern side boundary of the site are the subject of a Tree Preservation Order – TPO 4 of 2015.
- 3.02 The site lies in an area of archaeological significance

4.0 POLICY AND OTHER CONSIDERATIONS

Swale Borough Local Plan 2017:

Policies DM14 (General Development Criteria) and DM16 (Alterations and Extensions) are relevant here.

Supplementary Planning Guidance :Designing and Extension: A Guide for Householders

5.0 LOCAL REPRESENTATIONS

5.01 Six representations, all raising objection, have been received to date. These can be summarised as:

- The proposed changes to roof structure now obstruct our sight being higher than originally proposed;
- The planned veranda on the single storey rear extension will affect our privacy;
- The proposed height of veranda will allow those sitting or standing there to over look our garden and spoil our privacy, both in our garden and the back of the house including rear bedrooms;
- The overall visual appearance of the property has changed significantly and was built against the original planning consent from the outset. The pantry extension was also built against the original plan;
- In particular I raise a particular objection to the rear extension built without permission and the change in colour to roof and walls;
- The house in question is huge and completely dominates the immediate area, including our house;
- The planning application process is there for a reason. If it is allowed to be ignored in this way then it brings the whole system into disrepute. My view is that the building should be modified together the approved design or back to its original design.
- The roof has been built a lot higher than was originally passed;
- There are new additions that have also appeared, which are not on the original plans, such as a door near to our fence instead of a window, and an additional velux and 2 dormers added which also aren't on the original plans.
- The existing house has a red roof and red bricks, this was also on the original to remain;
- Because the roof has been built to this height and the hip angle almost straight and not vertical, it is now blocking out any light until 11.30am/12 Noon, whereas before we would get the sun all day. We have a 75 ft wide garden and it shadows all of it until midday;
- When we are in close proximity to the extension, it appears as a block of flats. We have actually had strangers ask us why we approved it – it's so ugly and is it going to be a nursing home?
- For us this confirms our viewpoint that it is overshadowing us and imposes on our sunlight, privacy and also the overall feeling of our house and the area
- We feel that the controls around planning are there to control inappropriate development. There has been no regard to the planning rules or the effect it may have on neighbours in the surrounding area.
- The building overshadows and blocks views from neighbours gardens;
- There are a number of discrepancies in the plans;
- Enforcement action should be taken regarding the roof alterations;
- Planning permission should have been obtained first – this sends a poor message to other developers/builders.

5.02 One of the Ward members, Councillor Conway has also requested that this application be considered by the Planning Committee.

- 5.03 The description of the development has recently been amended and reconsultation has taken place. The closing date for representations is 25th April. In addition, I am awaiting amended plans to address a number of discrepancies with the submitted details. I will update Members at the meeting.

6.0 CONSULTATIONS

- 6.01 The County Archaeologist confirms that no archaeological measures are required.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers, plans and correspondence for applications 14/502055/FULL and 17/504618/FULL.

8.0 APPRAISAL

- 8.01 The site lies within the built up area of Sittingbourne, where extensions and alterations are considered acceptable as a matter of principal. In addition, the site benefits from an acceptable provision of off street parking.

- 8.02 The key issues here are the impact of the scheme on visual and residential amenity.

Visual Amenity

- 8.03 The change in materials is acceptable. The rendered finish with plain slate tiles will not appear out of character with the surrounding dwellings, many of which are rendered and painted white.
- 8.04 The increase in pitch to the hips and the continuation of the main ridge of the roof of the house across part of the western extension has undoubtedly increased the bulk of the roof. However – I do not consider that in itself it harms the visual amenities of the streetscene. The design is not “top heavy” nor is it a fundamentally unattractive design and it does not appear cramped in the plot. In addition, the dwelling is set some considerable distance from the highway, such that in views from public vantage points, the roof does not in my view appear prominent or harmful.
- 8.05 The pitched roofs over the approved flat roof bay windows is to be welcomed, providing a more traditional design.
- 8.06 The additional roof light to the front would not give the roof a cluttered appearance, nor would those to the rear.
- 8.07 The ground floor rear extension would marry well with the existing flat roof extension, and would not be visible from public vantage points.
- 8.08 Given the above, in my view the proposals do not cause harm to visual amenity.

Residential Amenity

- 8.09 I note the objections raised on the basis of the rear balcony. However – the closest dwelling to the west in Park Drive lies approximately 49 metres from the application site, and as such no materially harmful overlooking will take place. If the flat roof of the new ground floor rear extension were to be used as a balcony or sitting out area, this

could have potential for overlooking to the neighbouring dwelling at no.4 Park Avenue, Condition 1 below would prevent such a use from taking place.

- 8.10 With regards the single storey rear extension, this is located approximately 25 metres from the closest dwelling, no.4 Park Avenue. As such, it will not give rise to overshadowing. There may be a slight impact on the garden of no.4, but this would not be so significant as to warrant refusal of planning permission.
- 8.11 The relationship between the front facing ground and first floor windows in the western side extension and no.4 Park Avenue remains as per the previous approved scheme. As such, planning permission should not be refused on this basis. In any event, the windows are separated from no.4 Park Avenue by approximately 20 metres and at an angle to this dwelling. The impact in this respect is acceptable.
- 8.12 The increase in pitch to the hip on the western side extension, and the continuation of the ridge height of the main part of the dwelling further to the west does have some impact on no.4. However – as set out above, the extension is set approximately 20 metres from the dwelling, and any increase in harmful overshadowing is likely to be slight. Equally, with regards impact on the garden of no.4, I do not consider this to be so substantial as to warrant refusal of planning permission. The roof alterations would not make a substantial difference to the light reaching the garden of this dwelling.

9.0 CONCLUSION

- 9.01 I have considered the impact of the development on visual and residential amenity, and conclude that the development would not have so harmful an impact that planning permission should be refused. As such, I recommend approval, subject to the receipt of any further representations (closing date 25th April) and to the conditions listed below.

10.0 RECOMMENDATION – GRANT Subject to the following condition

- 1) The flat roof area of the ground floor rear extension hereby approved shall not be used as a balcony or sitting out area and there shall be no other use of the roof area unless for maintenance.

Reason: In order to prevent overlooking and loss of amenity to adjoining properties.

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.



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PLANNING COMMITTEE – 26 April 2018**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO - 18/501027/FULL			
APPLICATION PROPOSAL			
To extend existing block paved driveway to front of property to accommodate one additional vehicle (retrospective)			
ADDRESS 10 Kingfisher Close, Iwade, Sittingbourne, Kent, ME9 8LY.			
RECOMMENDATION Refuse			
SUMMARY OF REASONS FOR REFUSAL			
The proposed hardstanding removes an area of soft landscaping that contributes positively to the green and open character and appearance of the street scene.			
REASON FOR REFERRAL TO COMMITTEE			
Called in by Ward Member.			
WARD Bobbing, Iwade And Lower Halstow		PARISH/TOWN COUNCIL Iwade	APPLICANT Mr Keith Adams AGENT
DECISION DUE DATE 30/04/18	PUBLICITY EXPIRY DATE 04/04/18		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/500553/OPDEV	Enforcement notice served against unauthorized driveway extension.	Notice served	13.02.18
Planning committee agreed last year to the service of an enforcement notice requiring removal of the unauthorised hardstanding, and replanting of the soft landscaping that had been removed, for the reason that the development as carried out was harmful to the <i>“verdant, soft landscaped character and appearance of the street scene.”</i>			
SW/11/0376	Extend driveway across the front of the property.	Refused	20.02.11
Application was refused on the grounds that the proposed driveway / hardstanding would be harmful to the character and appearance of the street scene. The subsequent appeal was dismissed, with the Inspector fully supporting the Council’s reasoning.			

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is a detached bungalow situated within the built up area of Iwade. It is situated on a corner plot and features an area of space to the front of the property, adjacent to the road, which was formerly an area of soft landscaping but has recently been converted to a driveway.

1.02 As noted above: in 2011 application reference SW/11/0376 was refused planning permission to remove the soft landscaping to the front of the property and to extend the driveway by means of laying hardstanding. The application was refused for the following reason:

“The proposal would, by virtue of its prominent siting to the front of the property and the removal of the attractive area of landscaping, result in a visually harmful parking area that would cause demonstrable harm to the character and appearance of the streetscene contrary to policies E1 and E19 of the Swale Borough Local Plan 2008, and paragraph 7.0 of the Council’s adopted Supplementary Planning Guidance entitled ‘Designing an Extension: A Guide for Householders’.

1.03 The subsequent appeal (PINS ref. APP/V2255/D/11/2155717) was dismissed (see Appendix A), with the Inspector fully supporting the Council and commenting at para. 4 of the decision:

“The existing soft landscaped area provides variety, interest and greenery and presents an attractive setting for the house and wider area. I consider that replacing it with an expanse of paving would create a more urbanised feel and undermine the original design and landscape concept of the Close. Even though a narrow border and two small bay-shaped flower beds would be retained, the paved area would appear starker and harsher than the existing arrangement, and would undermine the area’s pleasant character. This effect would be exacerbated by the front garden’s prominent position on the curve of the road.”

1.04 However, following the dismissal of this appeal, the applicant nevertheless went ahead and carried out the works anyway. The Council’s records show that the work was undertaken some time during 2016. Therefore in 2017 a report was submitted to planning committee seeking authority to issue an appropriate enforcement notice; Members agreed to such a notice, which was issued on 16 January 2018 and took effect on 13 February 2018. A copy of the Council’s Enforcement Notice is attached at Appendix B.

2.0 PROPOSAL

2.01 This application seeks to retain the unauthorised driveway / block paving, but with a revised layout that includes a planting strip across the front of the site, adjacent to the pavement edge. Access is via the existing dropped kerb.

3.0 PLANNING CONSTRAINTS

3.01 The site lies within an area of potential archaeological importance, but it is noted that all necessary archaeological investigative / ground works were carried out when the estate was originally constructed.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) support residential development subject to it being of a high standard of design and not giving rise to any serious amenity impacts, including visual amenity impacts.
- 4.02 Policies CP4 (good design) and DM14 (general development criteria) of the adopted Swale Borough Local Plan 2017 are relevant.
- 4.03 Policy CP4 states that all development proposals should be *“of a high quality design that is appropriate to its surroundings,” “enrich the qualities of the existing environment,” and “retain and enhance features which contribute to local character and distinctiveness.”* Policy DM14 requires (amongst others) that developments *“reflect the positive characteristics and features of the site and locality”* and *“be of a scale, design, appearance and detail that is sympathetic and appropriate to the location.”*

5.0 LOCAL REPRESENTATIONS

- 5.01 Three letters of support and a petition containing 10 signatures (from seven addresses) have been received, raising the following summarised comments:
- The development will reduce on-street parking and associated access problems in the street;
 - The design of the parking area is attractive;
 - Removal of the previous soft landscaping will save water; and
 - Removal of the previous larger landscaped area improves visibility along the road.
- 5.02 The application has been called in by Councillor Stokes. Councillor Stokes has also submitted the following comments in support of the application :

“I have paid two visits to Mr & Mrs Adams and I have twice walked around Kingfisher Close and I cannot see how this application is harmful in any way to the character and appearance of the street scene and local visual amenity. There are other grass areas in Kingfisher Close that have been surfaced over that is not up to the standard of this application. This extra parking space is needed for visitors and will save visitors parking in the road. If Members have any concern regarding the street scene a site visit would be appropriate. I fully support this planning application and I urge Members to vote for approval.”

6.0 CONSULTATIONS

- 6.01 Iwade Parish Council has no objection.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 The historic applications noted above are particularly relevant to this application. The current application is accompanied by a site location plan and block plan.

8.0 APPRAISAL

- 8.01 It is important to note the comments contained within the delegated report for SW/11/0376, which states:

The principle of development is acceptable within the built up area boundary.

There would be minimal impact on residential amenity.

The use of materials to match the existing driveway is positive and is acceptable in itself.

The proposed parking space would be located to the front of the property in an extremely conspicuous location within the estate. Very little of the attractive landscaping to the front of the property would be retained. The proposal would therefore remove attractive and prominent landscaping in the estate. In my opinion, it would create a visually harmful area of hardstanding to the front of the property. This would be visually harmful and would be detrimental to the character and appearance of the streetscene.

The property currently has ample parking space including a garage and a parking space to the front, so the proposal would create unnecessary parking provision that is harmful for the reasons noted above. The estate currently benefits from ample attractive landscaped area to the front of properties, if the proposal was replicated elsewhere it would lead to the loss of the attractive landscaped frontages to this estate which would be extremely harmful.

There would be minimal harm to highway safety and convenience in my opinion."

- 8.02 I agree with the case officer's assessment and conclusions, and do not see a need to reiterate the arguments here.
- 8.03 What is of particular relevance to this current application, in my opinion, is that the previous application was refused and the subsequent appeal dismissed. This, to my mind, clearly illustrates that hardstanding in this location is unacceptable. Furthermore the Council has issued an enforcement notice (which was agreed by the planning committee) requiring removal of this area of hardstanding and replacement with soft landscaping; that notice remains extant. Given the planning history of the site, it seems that the applicants must be aware that planning permission was required for the works that they have carried out. This being the case, this amounts to intentional unauthorised development. This weighs against the approval of the scheme.
- 8.04 I note that the application retains a landscaped strip around the fringe of the site in an attempt at softening its impact, however the layout is not substantially different to that against which the enforcement notice was served. I also refer back to the Inspector's decision on the planning appeal, which stated:
- "Even though a narrow border and two small bay-shaped flower beds would be retained, the paved area would appear starker and harsher than the existing arrangement, and would undermine the area's pleasant character."*
- 8.05 I am therefore in no doubt that the parking area is harmful to the character and appearance of the street scene and local visual amenity, and that planning permission should once again be refused in line with this Council's previous decisions.

- 8.06 I note the comments received from local residents but do not agree with their conclusions. The position of the site is such that landscaping would not seriously obstruct driver's views along the road; whilst not having to water plants may save some water, removal of soft landscaping can have a detrimental effect on water run-off onto the highway and in any instance drought-resistant planting can be used; and each property within the road appears to have adequate off-road provision for the parking of two vehicles (tandem bays in some instances), so on-street parking may be a local issue of convenience rather than necessity.
- 8.07 I am also concerned that if the Council reverses its position here it would be left open to further applications for removal of soft landscaping within the street. From aerial photos it is evident that there are substantial tracts of planting that *could* be used for parking, but which contribute significantly to the character of the street scene, which appears from aerial photographs to have remained relatively unchanged (save for the current works to no.10 and the establishment of the soft landscaping) since the late '90s.

9.0 CONCLUSION

- 9.01 The proposed driveway / hardstanding is unacceptable in terms of its visual impact and harm to the green and open character of the area. The Council has previously refused permission for the development; the subsequent appeal was dismissed; and an enforcement notice has been issued earlier this year requiring its removal. The proposal is therefore considered unacceptable and I recommend that planning permission should be refused.

10.0 RECOMMENDATION – REFUSE for the following reason:

- (1) The hard standing by virtue of its prominent siting to the front of the property and the removal of the attractive area of soft landscaping, results in a visually harmful area of hard landscaping that causes demonstrable harm to the verdant, soft landscaped character and appearance of the street scene contrary to policies CP4 and DM14 of Bearing fruits 2031: The Swale Borough Local Plan 2017, and paragraph 7.0 of the Council's adopted supplementary planning guidance entitled 'Designing and Extension: A Guide for Householders'.

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 to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and these were not considered to be any solutions to resolve this conflict. 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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3.2 REFERENCE NO - 18/500779/FULL			
APPLICATION PROPOSAL			
Demolition of existing garage and sheds and erection of a single storey side extension. Paving of driveway using resin bonded gravel, replacement of a existing 1.1m closed boarded fencing along the road frontage and erection of a 1.8m closed boarded fencing to west boundary.			
ADDRESS 1 The Bungalows Highstreet Road Hernhill Kent ME13 9EN			
RECOMMENDATION - Refuse			
SUMMARY OF REASONS FOR REFUSAL			
The proposed extension would represent an extension to the existing footprint of over 100%, contrary to policies of rural restraint.			
REASON FOR REFERRAL TO COMMITTEE			
Parish Council support			
WARD Boughton And Courtenay	PARISH/TOWN COUNCIL Hernhill	APPLICANT Mr Aaron Bowman AGENT	
DECISION DUE DATE 13/04/18	PUBLICITY EXPIRY DATE 19/03/18	OFFICER SITE VISIT DATE 23/02/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/505440/FULL	Demolition of existing garage and sheds and erection of a single storey side and rear extension. Paving of driveway using permeable block paving and erection of a 1.8m closed boarded fencing around front boundary.	Refused	11/12/2017
ON THE ADJACENT PROPERTY "HIDEAWAY"			
18/500636/LAWPRO	Lawful Development Certificate for single storey side extension.	Granted	01/03/2018
SW/78/402	Extension	Approved	31/05/1978

1.0 DESCRIPTION OF SITE

- 1.01 The application property (formally known as Glyn Nor) is a semi-detached bungalow located in an isolated rural location outside of any built up area boundary. The property sits side-on to the highway so that its flank elevation faces the road at a distance of 11.5m. It has generous garden/amenity space that extends to the front, side (roadside) and rear of the property, and is connected to its neighbour which sits at the rear from the public viewpoint. The street scene is characterised by a scattering of mainly detached properties, often bungalows.
- 1.02 A previous recent application (17/505440/FULL) proposed removal of existing outbuildings consisting of a garage and sheds, and the erection of two extensions. One was a flat roofed single storey rear extension measuring approximately 5m in depth and 9.2 metres in width – the same width as the original bungalow. Additionally, the previous application sought permission for a large single storey side

extension running 8 metres out towards the road, and with a perpendicular gable ended section extending 4.2m out beyond the line of the sideways facing front elevation of the bungalow. This proposal would have turned the bungalow from a simple rectangular shape to a Z shaped plan form far closer to the highway, and approximately three times as large as it stands today. The application also included new 1.8m high close boarded fencing on the roadside and on the site's western boundary. This application was refused. The reasons for refusal were:

“(1) The proposed single storey side extension by virtue of its scale and massing, would not amount to a modest extension to a dwelling in the countryside. It would have a damaging effect on the character and amenity value of the wider countryside and would therefore be contrary to policies ST3, CP4, DM11, DM14, and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 and the Council's adopted Supplementary Planning Guidance entitled 'Designing an Extension A Guide for Householders.

(2) The proposed fence, by virtue of its design, height and location in this rural area, would introduce a dominant and overbearing addition into the streetscene and would have an unacceptable detrimental impact on the character of the area and visual amenities, contrary to policy DM14 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.”

- 1.03 The attached bungalow known as Hideaway has been extended across most of the original front elevation by a 4.34m deep gable ended extension (approved in 1978), and recent drawings have shown a further 3.275m single storey side extension (at the far rear end of the property as seen from the road) which amounts to Permitted Development as it is not facing the road.

2.0 PROPOSAL

- 2.01 The current proposal is revised from the previous application and is to demolish the existing garage and two sheds, to erect a 6.4m wide version of the previous side extension (coming towards the road) with the same 4.2m front extension element, and to erect 1.1 m high closed boarded fencing along the road frontage and 1.8 m high closed boarded fence to the western side boundary. The proposal will turn the bungalow from a simple rectangular shape to an L shaped plan form approximately twice as large as it stands today. No rear extension is now proposed, although Permitted Development rights would allow up to a 3m deep rear extension (or up to 6m deep if Prior Approval were sought and not required).
- 2.02 Currently the bungalow consists of two bedrooms, a living room, utility room, study area, kitchen and external porch. The proposal would involve using the space of the existing bungalow as three bedrooms and a bathroom. The proposed single storey extension would be used for open plan living space and kitchen/diner with an internal porch. The entire corner of the extension where the dining room would be situated would have access to the outside provided by bi fold glass doors.
- 2.03 Although the proposal in this application has a reduction in measurements from the previously refused application, this application still proposes to increase the size of the bungalow from 60sq m to 116sq m (an increase of 56sq m) according to the applicant's own figures. Materials would be to match existing with a tiled roof and rendered and cladding to walls.
- 2.04 It is apparent that work has already started on replacing the windows and bricking up the door on the front elevation, as well as bricking up windows on the side elevation.

This works does not formally require specific planning permission, but it is indicative of preparations for the proposed extension.

2.05 The applicants have responded to the previous refusal as follows;

RESPONSE TO OFFICERS REPORT AND REVISED APPLICATION

Following receipt of the refusal notice and the officers report, we would like to address the planning departments concerns and submit a revised application. Please note we have only addressed points in the officer's report where concerns have been raised. Please see our responses below.

PLANNERS COMMENT

The [rear] extension projects by 5m when the SPG recommends only a 3m projection close to the common boundary. However, the adjoining property, 'Hideaway', has an existing extension that was approved pre 1990 and extends along the same common boundary and to the same distance that the proposal extends. As such I do not believe that this element of the proposal would give rise to any serious harm to neighbouring amenities.

OUR RESPONSE

We have decided to satisfy the planners concern regarding a modest extension to a rural property by removing the rear extension form the scheme completely and reduce the side extension from 77msq to 56msq. This should satisfy the officers concerns in respect of the rear extension.

PLANNERS COMMENT

The application also proposes a 1.8m high close boarded fence running along the front boundary of the site and abutting the highway. The site as existing has a 1.1m high close boarded fence along this boundary. Although I do not believe this has a positive impact upon visual amenities its relatively small scale limits the harm it causes. The proposal to introduce a close boarded fence 1.8m in height would in my view give rise to a feature that would be extremely prominent in the street scene and be dominant and overbearing due to its proximity to the highway. Its location would also not allow for any landscaping between the front boundary of the site and the fence to soften its appearance. As a result I am of the view that this element of the proposal is unacceptable due to the significant harm to visual amenities and I believe the application should be refused on this basis.

OUR RESPONSE

We have decided to replace the 1.1m closed board fencing along the road frontage (maintaining the existing height) only but install a 1.8m closed boarded fence along the west boundary to screen from the neighbours. We are of the opinion this can be completed under permitted development rights, so the planner should have no objection.

PLANNERS COMMENT

The rear extension would create a total floor space of 46sqm, whilst the side extension would create an additional 77.66sqm, a total of 123.66sqm. The original property, as existing has a floor area of 60.85sqm. In my view the existing property can be described as modest, something which the local plan and SPG seeks to protect in the countryside. The increase proposed would amount to extensions of a 203% increase on the original. The SPG quotes a percentage increase of 60% as being acceptable and that extensions should be subservient to the main dwelling. Furthermore, the side extension will project 8m

towards the highway, significantly increasing the prominence of the property and not minimising its impact. In this case, due to the modest scale of the existing property and the scale of the additions proposed I take the view that the proposal would not be of an appropriate scale and mass in relation to the property and would give rise to harm to the wider countryside. I therefore recommend that the application is also refused on this basis.

OUR RESPONSE

Omitting the rear extension and reducing the side extension should satisfy the planners concerns regarding the SPG planning policy seeking to protect the countryside. Whilst the extension is an increase in size of approximately 90%, we feel we have taken onboard the officers concerns and dramatically reduced the scheme to a more suitable scale in accordance with SPG Guidelines. We have also been given advice that this specific planning policy referring to extensions to rural properties has been under review to omit the word 'modest' from the policy. Bearing this in mind, the fact the extension has no visual harm to immediate neighbours as stated by the planning officer, we are of the opinion the extension is now acceptable in terms of size and scale. The extension is also reduced from the road boundary by a further 1.6m, so the prominence the extension has on the street scene is significantly reduced also. Hopefully based on our comments above we have addressed all concerns raised by the planning officer and an approval can now be issued.

3.0 PLANNING CONSTRAINTS

Outside established built up area boundary

4.0 POLICY AND OTHER CONSIDERATIONS

Bearing Fruits 2031: The Swale Borough Local Plan 2017

- Policy CP4 - Requiring Good Design
- Policy ST3 - The Swale Settlement Strategy
- Policy DM11 - Extension to and replacement of dwellings in a rural area
- Policy DM14 - General Development Criteria
- Policy DM16 - Alterations and Extensions

Supplementary Planning Guidance (SPG): Designing an Extension - A Guide for Householders

5.0 LOCAL REPRESENTATIONS

- 5.01 No representations have been received from local residents.

6.0 CONSULTATIONS

- 6.01 Hernhill Parish Council supports the application. No reasons for support are given.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings as submitted under planning reference 18/500779/FULL.

8.0 APPRAISAL

- 8.01 I consider the proposed fencing to the property to be acceptable. However, the original property has a floor area of 60sq m and the increase of 56sq m proposed would amount to an extension of almost the same size as the current bungalow, and in a dominant and prominent position. The Council's policy DM11 advises that in a rural location only modest extension should be permitted and the Council's SPG quotes a percentage increase guidance of 60% as being acceptable. It also suggests that extensions should be subservient to the main dwelling. The preamble to Policy DM11 states that:

"Rising property prices in the rural area means that it is often a cheaper option for occupiers and purchasers either to extend or replace a smaller dwelling when more living space is desired. The Council is concerned that large extensions or replacement dwellings can harm the character of the rural area. For these reasons, and where planning permission is required, Policy DM11 seeks to control the extensions to, and replacement of, dwellings in the rural areas. The Council's existing SPG – Designing an Extension: A Guide for Householders, is a material consideration to the determination of some proposals. Planning permission will only be granted in cases proposing modest extensions (taking into account any previous additions undertaken) of an appropriate scale, mass, and appearance to the location."

I do not consider this is a modest extension, almost doubling the existing footprint and considerably changing its apparent scale and impact on the countryside. A such, this would constitute an overly large extension which would dominate the existing dwellinghouse, rather than being subservient to it, contrary to the provisions of Policy DM11 and the provisions contained within the SPG.

- 8.02 The attached property has been extended to the front and may soon be extended to the side (away from the road). The first extension was approved in 1978 when policy for rural extensions was not well developed, but in any case that extension is modest and of an acceptable impact given the orientation of the property. A similar extension on the current application property would be equally acceptable. The more recent side extension plans are out of the Council's control but should not be noticeable due to their position. I see no reason to see these extensions as providing grounds to approve the current planning application, despite the support of the Parish Council.

9.0 CONCLUSION

- 9.01 Due to the modest scale of the existing property and the scale of the additions proposed, even after the reduction from the previous proposal, I take the view that the proposal would still not be of an appropriate scale and mass in relation to the property and would give rise to harm to the wider countryside. I therefore recommend that the application is refused on this basis

10.0 RECOMMENDATION – REFUSE for the following reasons:

REASON

- (1) The proposed single storey side extension by virtue of its scale and massing, would not amount to a modest extension to a dwelling in the countryside. It would have a damaging effect on the appearance of the property and on the character and amenity value of the wider countryside and would therefore be contrary to policies ST3, CP4, DM11, DM14, and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017

and the Council's adopted Supplementary Planning Guidance entitled 'Designing an Extension A Guide for Householders'.

Council's approach to this application

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

In this case the application was unacceptable as submitted, and no minor amendment would make it acceptable.

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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PLANNING COMMITTEE – 26 APRIL 2018

PART 5

Report of the Head of Planning

PART 5

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

- **Item 5.1 – Gate House, Uplees Road, Oare
APPEAL DISMISSED**

DELEGATED REFUSAL

Observations

Full support for the Council's decision.

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Appeal Decision

Site visit made on 17 January 2018

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2018

Appeal Ref: APP/V2255/W/17/3188008

Gate House, Uplees Road, Oare, Kent ME13 0QT

- 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 Aaron Sunley against the decision of Swale Borough Council.
- The application Ref 17/501102/FULL, dated 27 February 2017, was refused by notice dated 5 May 2017.
- The development proposed is described as '*Conversion of existing building into a Live & Work Unit comprising two bedroom living space with artisan workshop/office.*'

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Subsequent to the Council's decision, but prior to the appeal being lodged, the Council adopted its replacement Local Plan entitled 'Bearing Fruits 2031 2031: The Swale Borough Local Plan'. This supersedes the 2008 Local Plan policies that were referred to in the Council's decision. Accordingly, I have determined this appeal in accordance with the newly adopted policies and any other relevant material considerations.

Main Issues

3. The main issues in this appeal are:
 - 1) Whether the site represents an appropriate location for new housing, having had regard to the Council's settlement strategy and also the National Planning Policy Framework; and
 - 2) The proposal's effect on the character and appearance of the countryside.

Reasons

Location

4. Planning permission is sought for the conversion and significant alteration of an existing single storey, timber framed building workshop building for use as a single residential dwelling and a small attached craft workshop. It is proposed that an upper floor be created to accommodate two bedrooms and bathroom facilities, and this would necessitate the ridge height being raised by approximately 1.2m.

-
5. Uplees Road, off which the building is situated, is a narrow un-made road. Nonetheless, during my site visit I noted that there were some houses in the vicinity, including 'Brambledown' which lies immediately adjacent. The appeal site, though, is in the open countryside, significantly distanced from the built-up area boundary, and falls within a Special Landscape Area.
 6. Paragraph 55 of the National Planning Policy Framework (the Framework) indicates that to promote sustainability in rural areas new housing should be located where it will enhance or maintain the vitality of rural communities. Accordingly, isolated homes in the countryside should be avoided except in circumstances where, amongst other things, it would be essential for a rural worker to live near their place of work or it would use a redundant building and lead to an enhancement to the immediate setting.
 7. The issue of vitality was addressed in the recent court judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited*. Here the judge, whilst acknowledging the essential role that housing plays in ensuring the vitality of local facilities and services, indicated that the key question was whether the housing was proximate to services and facilities so as to maintain or enhance the vitality of the rural community.
 8. The judge commented that paragraph 55 of the Framework should not be seen as a policy against development in settlements without services as a small village may enhance and maintain services in a neighbouring village, as people travel to use them. However, despite the presence of some established individual houses in the vicinity the immediate area could not be described as a small village. Although the appellant comments that the village of Oare is within reasonable walking distance the area is very limited in terms of services and facilities. Also, despite the reference to internet shopping, this would require vehicular deliveries by means of large vans.
 9. The site falls outside the identified and defined built-up area boundaries, as shown on the Council's Proposals Map. The Local Plan (LP) indicates that development proposals will be supported in accordance with the settlement criteria set out in Policy ST3 thereto. This seeks to channel new development within the built-up area boundaries and indicates that development will not be permitted in locations within the open countryside unless supported by national planning policy and able to demonstrate that it would contribute to, amongst other things, protecting the vitality of rural communities.
 10. The appellant describes the development as a live/work unit, but it is clear from the proposed design that the emphasis is heavily on the residential element. Whilst enhanced facilities for a rural commercial enterprise would be in accordance with LP Policy DM3 and also consistent with paragraph 28 of the Framework I have seen no firm details of the workshop element, the level of employment involved, or any business plan to this end. As the proposal stands the workshop section appears little more than a small extension to the main building incidental to the enjoyment of the proposed dwelling. Such an arrangement would be in conflict with the said policy. As such, apart from the building's construction works, I have seen no evidence of any long term economic benefit. Neither am I convinced that the proposal would contribute in any significant way towards the vitality of local facilities and services. Further, given the location there would be a strong reliance on the private car.

-
11. Taking all such factors into account, especially the Council's settlement policy, I conclude that the site is not within a sustainable location and the development would be in material conflict with the objectives of LP Policies ST3 and DM14 and also relevant advice within paragraphs 7 and 55 of the Framework.

Character and appearance

12. The appellant considers that the proposed conversion of the building into a mixed live and work unit represents the best use of an existing building which would also blend in with the landscape of the rural settlement. In terms of the proposed works to the building and its modification, including the raising of its roof height, I am satisfied that, given its immediate surroundings, the proposal would represent an improvement in both physical and visual terms. As such, the impact on the landscape and countryside would not be deleterious. Notwithstanding the likely reliance on the private car I consider that the vehicular traffic generated by the residential element would be relatively small and, due to its limited size, it is unlikely that the workshop would add to this in any significant way.
13. I therefore conclude that the proposal would not be harmful to the character and appearance of the countryside, and there would be no material conflict with LP Policies DM24 and DM26.

Other considerations

14. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. However, relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five year supply of deliverable housing sites.
15. The Council, in both its representations and also its 'Statement of Housing Land Supply, 2016/17, partial update December 2017 (SHLS) indicates that it can currently demonstrate a five-year supply of deliverable housing sites within the Borough. Indeed, in an appeal decision letter (APP/V2255/W/17/3172378), of November 2017, the Inspector identified a housing land supply of 5.4 years. More recently, the SHLS has since revised this figure to 5.3 years, acknowledging that there have been slippages in anticipated timings across a number of strategic sites since the previous SHLS (2015/16). However, it goes on to say that these are partially compensated by a speedier delivery on one strategic site.
16. The appellant takes a contrary view and contends that, due to Highways England and Kent County Council (KCC), the local highway authority, both raising holding objections on developments which will impact on the A249/A2 Key Street junction, the Council's supply of deliverable housing land is significantly less at approximately 3.6 years. A letter has been provided by KCC confirming the holding objection. This matter was highlighted by the Local Plan Inspector at its Examination who identified, at the time, outstanding and unresolved issues in relation to the requisite highway infrastructure.
17. As an update I have also been provided with a recent letter from the Department of Transport which refers to a meeting held in January 2018, attended by Highways England, KCC representatives and the Council. Here it was agreed that mitigation is required before any development can proceed,

Appeal Decision APP/V2255/W/17/3188008

and all agreed to work quickly to complete the necessary transport modelling and mitigation design, and then to construct the junction improvements.

18. The Council's most recent representations confirm that the agreement has been reached and this will enable the release of planning permissions, subject to completion of the respective S106 agreements, for several major housing sites, which the appellant has made reference to in the appeal papers.
19. In the circumstances, although the situation has caused some delay, I have seen no compelling evidence to suggest why, with the various parties working together in a common purpose, the planned housing delivery should not be achieved.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. In circumstances where an up-to-date development plan is in effect, and where a five year housing land supply can be demonstrated, as I find is the case here, full weight can be given to the Council's identified settlement boundaries with restriction outside such boundaries on new housing development.
21. The site is within 6km of the Swale Special Protection Area (SPA) and this raises concerns over possible disturbance to birds. The Local Plan comments that each application is assessed individually and may require developer contributions to mitigate impacts in accordance with Policy CP7. The appellant has indicated that he is prepared to make an appropriate financial contribution in this respect, although I have not had sight of any Unilateral Undertaking to this end. However, as I have found against the proposal on another substantive matter, I need not explore the issue of SPA mitigation further.

Conclusions

22. Whilst I have found that the proposal would not be harmful to the character and appearance of the countryside, this is outweighed by the harm that would result from the siting of a new residential dwelling in this particular location. The limited information provided in respect of the workshop element does not demonstrate any rural enterprise of significance and does not mitigate in the circumstances.
23. Even if the Council could not demonstrate a five year land supply the contribution of one additional residential unit would be very small. In the circumstances I see no reason why the proposal should not be determined in full accordance with the development plan.
24. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR

By virtue of paragraph(s) 1, 2, 3, 4, 5, 6, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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