

## AGENDA

### PLANNING COMMITTEE MEETING

Date: Thursday, 9 January 2020

Time: 7.00pm

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

#### Membership:

Councillors Cameron Beart, Monique Bonney, Roger Clark, Simon Clark, Tim Gibson (Chairman), James Hall, Nicholas Hampshire, James Hunt, Carole Jackson, Elliott Jayes, Peter Marchington, Benjamin Martin (Vice-Chairman), David Simmons, Paul Stephen, Eddie Thomas, Tim Valentine and Tony Winckless.

Quorum = 6

#### RECORDING NOTICE

Please note: this meeting may be recorded.

At the start of the meeting the Chairman will confirm if all or part of the meeting is being audio recorded. The whole of the meeting will be recorded, except where there are confidential or exempt items.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this recording will be retained in accordance with the Council's data retention policy.

Therefore by entering the Chamber and speaking at Committee you are consenting to being recorded and to the possible use of those sound records for training purposes.

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Pages

#### 1. Emergency 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 [5 December 2019](#) (Minute Nos. 384 - 390) and the Extraordinary Meeting held on 17 December 2019 (Minutes Nos. to follow) as correct records.

4. Declarations of Interest

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

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

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

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

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

**Advice to Members:** If any Councillor has any doubt about the

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

## **Part B reports for the Planning Committee to decide**

### **5. Planning Working Group**

To approve the Minutes of the Meetings held on 6 January 2020 (Minute Nos. to follow).

To consider the following applications:

19/500866/OUT, Land at Swale Way, Great Easthall, Sittingbourne, ME10 3TF.

19/504412/FULL, Oyster Bay House, Chambers Wharf, Faversham, ME13 7BT

### **6. Report of the Head of Planning Services**

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

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services ([democraticservices@swale.gov.uk](mailto:democraticservices@swale.gov.uk) or call 01795 417328) by noon on Wednesday 8 January 2020.

## **Issued on Friday, 20 December 2019**

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](http://www.swale.gov.uk)

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

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## SWALE BOROUGH COUNCIL

### PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

**9 JANUARY 2020**

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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

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ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

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

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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## **INDEX OF ITEMS FOR PLANNING COMMITTEE – 9 JANUARY 2020**

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### **PART 2**

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**PLANNING COMMITTEE – 9 JANUARY 2020****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 17/500921/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Removal of condition 1 of previously approved application: SW/13/0011 (Change of use of land for the siting of one static mobile home for a gypsy family with associated utility block and parking for vehicles and two touring caravans).		
<b>ADDRESS</b> Dinky Cot, Sunset Close, Eastchurch, Kent, ME12 4JW.		
<b>RECOMMENDATION</b> Grant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
The site will provide a permanent gypsy / traveller pitch in a sustainable location and without giving rise to significant amenity impacts.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Parish Council objection.		
<b>WARD</b> Sheppey East	<b>PARISH/TOWN</b> Eastchurch	<b>COUNCIL</b> <b>APPLICANT</b> Mrs D. Gray <b>AGENT</b> Heine Planning Consultancy
<b>DECISION DUE DATE</b> 17/04/17		<b>PUBLICITY EXPIRY DATE</b> 28/03/17

**Planning History**SW/13/0011

Change of use of land for the siting of one static mobile home for a gypsy family with associated utility block and parking for vehicles and two touring caravans  
Grant of 4yr temporary permission. Decision Date: 05.03.2013

Officers recommended that the application be approved because of the site's sustainable location (less than 2km to a number of services) and the limited amenity impacts arising from such use in this location. Some Members had concerns in respect of the site's location and local impacts, however, and a temporary permission was issued (rather than permanent) to allow time for the Council's policy position to be reviewed / resolved and to monitor the site.

SW/11/0504

Change of use to a Gypsy Site, with one static caravan, one utility block, parking for one touring caravan, parking for two associated vehicles, and one portaloo.  
Refused Decision Date: 24.08.2011

This was a resubmission of the SW/10/1373 but with further information in respect of personal circumstances. The planning committee did not consider those circumstances to be sufficient to outweigh the harm arising from the development and permission was refused. No appeal was submitted and the land was then sold to a different family.

SW/10/1373

Change of use to a Gypsy Site with one static caravan, one utility block, parking for one touring caravan, parking for two associated vehicles (one portaloo).

Refused      Decision Date: 26.11.2010

The application was refused under delegated powers on the grounds that the location was unsustainable. This is discussed further below.

**1. DESCRIPTION OF SITE**

- 1.1 The application site lies on an unmade road to the north-east of Eastchurch, outside of the designated built up area boundary, and within a small settlement comprising a number of detached bungalows and residential static caravans.
- 1.2 As a result of this position the area has a very mixed character. The site is bounded to the west, south and north by residential properties (Sea Shanty to the south/south-east is a detached bungalow, Mardyke to the west is a residential caravan, and Magpie Cottage to the west is a detached bungalow), with further dwellings to the south and east leading to Brookside and Elmhurst holiday caravan parks. To the north, beyond the unmade road, is open ground leading to the cliffs.
- 1.3 The plot is roughly L-shaped and features access from both Third Avenue to the north and Sunset Close to the south. A house occupied the plot until around 1991, when it burned down, and the land remained empty for a number of years.
- 1.4 Land levels vary across the site, but generally rise up from north to south, so there are views of the land when stood on Third Avenue. Some site levelling has been carried out in the past so there is a step up to the rear (southern) half of the site.
- 1.5 A static caravan, small brick-built amenity block, and outbuilding sit at the northern end of the site around a parking area. The southern half of the site is largely given over to a garden area, but also provides parking for up to two touring caravans which will access the land from Sunset Close.

Planning history

- 1.6 Retrospective planning permission for the change of use of this site to a gypsy site was refused under delegated powers in 2010 under reference SW/10/1373. The reason for refusal was based on the unsustainable location of the site, being remote from shops, services, public transport and amenities. From the minutes relating to SW/13/0011, however, it appears that the officer's assessment was flawed and a number of factors had not been considered. I therefore give little weight to this refusal in my assessment set out below.
- 1.7 Following this refusal the applicants submitted an application in 2011, ref. SW/11/0504, for the same development, but including additional information relating to the health and wellbeing of the children of that particular family (not the current applicant). Planning Committee refused the application on the grounds that the personal circumstances of the applicant did not outweigh the harm that the development caused in respect of its unsustainable location. No appeal was submitted.
- 1.8 Most recently, in 2013, application ref. SW/13/0011 sought permanent permission for residential gypsy / traveller use of the site (different applicants from the previous scheme). Officers assessed that application with regard to the Council's (then) newly revised Site Assessment Criteria and the site was found to be sustainable (under 2km to the shop, school, church, and bus stops within Eastchurch village, and utilities now fully installed). The application was put to the planning committee with a

recommendation to approve, but some Members were concerned and the vote to approve was lost. A revised proposal for temporary permission was put to the vote and a four year temporary permission was approved by the committee. The minutes comment:

*“Councillor Mike Henderson moved the following proposal: That the proposal be granted a temporary planning permission for a period of four years. The four year period would allow time for the Council's policy on gypsy site provision to be established and was a reasonable time for a home to be established. This was seconded by Councillor Martin McCusker. On being put to the vote the motion was agreed.”*

1.9 Reflecting the minutes, condition 1 of the planning permission states:

*The use as a residential caravan site shall be for a limited period being the period of four years from the date of this decision and at the end of this four year period the use as a residential caravan site shall cease and all caravans, structures, fences, materials and equipment brought on to, or erected on, the land, or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition prior to its first occupation.*

*Grounds: In recognition of the unsustainable location of this site balanced against the needs of the gypsy population in pursuance of policies E1, E6 and H4 of the Swale Borough Local Plan 2008.*

## 2. PROPOSAL

- 2.1 This application seeks to remove condition 1 of SW/13/0011 to allow permanent use of the site as a residential gypsy / traveller site.
- 2.2 No physical changes are proposed, and site layout would remain as existing, i.e. with a static caravan and small utility building at the northern end of the site, and two touring caravans and amenity space on the southern area.
- 2.3 The application is somewhat unusual in that the applicant admits they are not a gypsy or traveller. The original applicant (Mr Shane Gray) could have arguably been considered to have a nomadic habit of life due to travelling for work, and thus may have been considered a gypsy or traveller (although officer's opinion was that the evidence to demonstrate this was very weak). He has, however, sadly passed away. His wife (Mrs Dannielle Gray) admits she is not a gypsy or traveller, but she is seeking to continue with the application so that she may sell the site to a gypsy or traveller family and move herself and her two young children into a house elsewhere.

## 3. SUMMARY INFORMATION

	Existing
Site Area	460sqm / 0.04ha
Parking Spaces	At least 2
No. of Residential Units	1

## 4. PLANNING CONSTRAINTS

- 4.1 The site is within Erosion Zone 1 and the Coastal Change Management Area and Erosion Zone 2 as defined by policy DM23 of the Local Plan. The policy states that permission will only be granted for developments that are “less permanent in nature” and where they would not increase risk to life or property.

## 5. POLICY AND CONSIDERATIONS

### National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued 2015)

5.01 The national policy position in relation to gypsy and traveller applications comprises the National Planning Policy Framework 2019 (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS). Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.

5.02 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

*Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and*

5.03 In relation to rural housing the NPPF (at paragraph 78) states;

*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*

5.04 Paragraph 79 continues:

*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*

*b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*

- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*
  - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

- 5.05 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

- 5.06 Of particular relevance here is paragraph 178, which states:

*Planning policies and decisions should ensure that:*

- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

- 5.07 Para. 179 continues;

*Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

## Planning Policy for Traveller Sites (PPTS)

5.08 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims 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)*

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

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

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*

- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

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

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

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

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

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

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

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

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

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

5.12 Finally, the definition of gypsies and travellers was 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 such.”*

- 5.13 The Council responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation, adopting a GTAA and carrying out additional work on the (then emerging) Local Plan.

### **Swale Landscape Character and Biodiversity Appraisal SPD 2011**

- 5.14 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Minster and Warden Farmlands area where the document advises that the landscape should be “restored and created” by avoiding unduly prominent developments and using vernacular materials, amongst others. I do not consider that landscape impact is a significant potential objection to development here.

### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- 5.15 The Local Plan was adopted in 2017 following a formal review and adoption process. The key adopted policy to deal with windfall planning applications for new sites is DM10 (Gypsy and Traveller sites), which states:

#### ***Part A: Retention of sites for Gypsies and Travellers***

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

#### ***Part B: Gypsy and Traveller sites***

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

- 1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
  - a. there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or*
  - b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or*
  - c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.*
- 2. Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);*
- 3. Can achieve an integrated co-existence between all communities;*
- 4. Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;*



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

5.16 Other relevant Local Plan policies are:

- CP4 (good design). This polices all developments to be of a high standard of design and to contribute positively to the character of the area.
- 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. Here, new development will not be permitted unless it has an intrinsic reason for being there and it will protect and/or enhance the countryside. The appeal site is in such a poorly located position and subject to the strictest restraint on new development.
- DM6 (vehicle access) sets out that all new developments need to provide safe, appropriate access to the highway network.
- DM23 (coastal change management). This sets out that within the Coastal Change Management Area permission will be granted for development where it would not result in a significantly increased risk to life or property, and be “less permanent,” amongst others.
- DM24 (protected landscapes). This policy refers to landscape character areas and the need to protect or enhance their identified qualities.

**Five year supply position**

- 5.17 The Council undertook a new GTAA following adoption of the Local Plan, and this was completed in November 2018. The assessment covers the period 2017/18 to 2037/38, and identifies a PPTS definition-compliant need of 30 pitches in the short-term 5 year period, and a further 29 pitches to 2037/38. With reference to the cultural need also set out within the assessment, and since the revised definition of who is considered a traveller, it has been commonplace within GTAA methodology to calculate a cultural need (i.e. for all those who identify as gypsies and travellers) and then extract a PPTS need (i.e. for those who meet the revised definition) from it. Footnote 25 of the NPPF clearly sets out that the need to provide for travellers (as set out in paragraph 61) is for the definition as set out within the PPTS. As such, within the context of planning for pitches, the cultural need does not add to the Council's need.

- 5.18 Based on the GTAA, and taking into account the Council's current supply position, the following can be said:

current 5 year pitch need = 13.75;  
current annual pitch need = 2.75;  
current supply of pitches = 16;  
current 5 year supply = 5.8 year supply.

- 5.19 The Council can therefore **currently** demonstrate a 5 year supply of deliverable sites, but windfall sites such as this contribute to the longer-term supply over the plan period to 2031 and provide some security when having to defend refusals on more marginal sites.
- 5.20 Finally, the Government's Chief Planner announced on 31 August 2015 (the same day PPTS was re-issued) a policy that, from that date, in all applications and appeals that involve intentional unauthorised development this fact can be a material planning consideration. In this case the site has been cleared and fenced – but not occupied – although given my assessment below I do not consider this should weigh heavily against the applicant.

## 6. LOCAL REPRESENTATIONS

- 6.1 Nine letters of support have been submitted by local residents, generally commenting that the applicants have settled into the area well, improved the appearance of the plot, and get on well with their neighbours.
- 6.2 One letter of general comments has been submitted, raising the following summarised concerns:
- The applicant is not a gypsy / traveller, and previously rented a caravan on one of the holiday parks;
  - Two garden sheds have been erected at the rear of the site;
  - Landscaping and surface drainage works specified under the 2013 temporary permission have not been carried out;
  - The address on the application form is incorrect and it should be Sunset Close rather than Third Avenue; and
  - Agree with the comments of the Parish Council.

## 7. CONSULTATIONS

- 7.1 Eastchurch Parish Council doesn't object, but subject to a number of suggested conditions / stipulations that change the nature of the application (particularly i and iii as set out below) and, in my view, they therefore object to the application as it stands:

*"Eastchurch Parish Council Planning Committee does not object to this application only on inclusion of the following conditions:*

*i. Members agreed that they could accept one mobile residential unit but felt that the addition of the touring caravans should be excluded due to the impact on a residential area.*

*ii. Members wished to endorse the existing conditions, in particular condition 3 which prohibits the site from being used for any commercial purpose including the storage of vehicles*

*iii. The Committee agree that the application site should not be designated as a traveller site, given the residential nature of the area and that this would be an inappropriate designation.*

*iv. The Committee request that whatever decision is made by Swale Borough Council Planning Committee, the site is monitored and a report given back to Planning Members after 6 months as to the adherence of the conditions.”*

7.2 KCC Highways have no comments.

7.3 Southern Water has no comments.

## **8. BACKGROUND PAPERS AND PLANS**

8.1 The application is accompanied by the relevant forms and plans, and a detailed supporting statement from the applicant's agent. That statement, however, referred largely to the background and activities of Mr Gray who, as above, has passed away. No information is provided about Mrs Gray as she (to officer's knowledge) does not identify as a gypsy or traveller.

8.2 The agent has also submitted a letter in response to the comments submitted by a neighbour and the Parish Council, which essentially amounts to confirming that the applicant is a gypsy; raising the fact that touring caravans are not an uncommon site both within the local area and on gypsy / traveller sites; and noting that the applicant would be bound by any conditions attached to a grant of permission, which the Council would be able to enforce.

## **9. APPRAISAL**

### Nature of the application

9.1 The first issue to be considered in my opinion, is that the applicant is not a gypsy or traveller. However, Mrs Gray does not intend to remain on the site; she seeks removal of the condition to enable her to sell the land to bonafide gypsies / travellers and move her family elsewhere. In this regard the application can be thought of similarly to someone gaining speculative planning permission to build a house on a piece of land they intend to sell on, for example.

9.2 Therefore Mrs Gray's status is therefore, in my opinion, neither here nor there in terms of determining this application. If approved, the Council's planning enforcement team would be able to monitor the site and ensure that any future residents met the PPTS definition of gypsies / travellers and that the site was, therefore, being used in a manner commensurate with the approved use.

9.3 If this application is approved the applicant would immediately be in breach of the condition restricting occupancy to gypsies / travellers only. However I would suggest that it would be appropriate for the Council to give Mrs Gray a short grace period (of perhaps a few months) to sell and move off the site before considering any formal enforcement action.

### Principle

9.4 The site is not located in an area at risk of flooding, nor is it located in a nationally designated area relating to landscape or biodiversity.

9.5 As set out above, government policy states that sites in the open countryside, away from settlements, should be strictly controlled. This strand of the new policy has three

purposes. Firstly, it seeks to ensure that visual harm to the countryside is minimised. This is discussed below.

- 9.6 Secondly, I consider that it seeks to ensure that sites are not isolated from the settled community. This site, although located in the countryside, is within an area of existing residential development and holiday accommodation, and it would be difficult to argue that it was isolated from the settled community. (I also note, but don't necessarily give significant weight to, the letters from neighbouring residents commenting that the applicant has settled well within the area.)
- 9.7 Thirdly, in my view, it seeks to ensure that sites are approved in sustainable locations. This site is located a walking distance (via public rights of way) of roughly 1.8km from the services in Eastchurch, which include convenience shops, a post office, primary school, doctor's surgery and dentist. There is a bus service that runs five times a day (less often on a Saturday, and not on Sundays) and connects Warden Road with Eastchurch, Minster and Sheerness. I am of the view that this site can be considered to be within a sustainable location and could, without significant detriment to them, support one gypsy family in terms of their access to necessary services and amenities.
- 9.8 The previous refusals relating to the unsustainable location of the site are, in my opinion, no longer relevant, as the committee report for SW/13/0011 explains:

*Members may well question why I have come to this conclusion bearing in mind that the two previous refusals for similar gypsy development at this site were based on the unsustainable nature of the sites' location. I have given this matter much thought and there are two main reasons for allowing this development. Firstly, one must consider this application under the current Government policy which places a clear onus on Councils to find sites for gypsies to reside upon. This policy has been adopted since the two refusals were issued. Allowing this site to be developed as a gypsy site will go some way, if only a little, towards meeting the gypsy needs of this Borough.*

*Secondly, I have considered this application alongside a number of other gypsy applications that have been granted planning permission in recent months. Most recently, permanent planning permission was granted by this Committee for a gypsy site at The Retreat, Bell Farm Lane, Minster. Comparing this site to the current application site, it is apparent that the access to shops, services and amenities is very similar, if not better at Dinky Cot. I am of the view that the application site has been somewhat harshly judged in the past for its proximity and ease of access of the shops and services in Eastchurch. In light of this, I have taken the opportunity to re-score the site under the Gypsy and Traveller Corporate Policy Site Assessment criteria (see Appendix A). Under my re-assessment, the site scores 29 as opposed to 16/17 under the 2010 and 2011 applications respectively. The main reason for my higher scoring is that I have scored positively for access to a primary school, shops, doctor's surgery, dentist and public transport under the sustainability section. Although the site is perhaps not as sustainable as some gypsy sites, its sustainability is easily comparable, if not better, than other gypsy sites on the Isle of Sheppey. Moreover, the site is within 2km of its closest settlement – Eastchurch, and this is generally accepted as being a sustainable location under planning guidance. I therefore urge Members to reconsider this point with this in mind.*

- 9.9 The Coastal Management Zone designation aims to restrict development that would cause significant risk to life, or be so permanent as to be affected should the land be subject to erosion in future. I consider that use as a residential caravan site falls within this remit. The cliff edge is (currently) approximately 50m from the site, beyond another residential property; should the land erode to the extent that the site is unsafe or

unviable any caravans could be removed and the use abandoned but until that time it could remain productive and useful.

9.10 I therefore consider that the principle of permanent residential use is acceptable.

#### Visual impact

9.11 The site is surrounded on three sides by other properties of varying layouts, styles, and designs. One of the defining characteristics of Third Avenue is, in my opinion, its lack of a cohesive street scene and the widely varied nature of the various plots along its length. The same is true of Sunset Close to the rear (the application site can be accessed from either).

9.12 The static caravan and existing utility block do not cause significant harm to local visual amenity, and are certainly not a prominent feature of the street scene when walking along Third Avenue, in my opinion. The site does not appear cramped or overcrowded, and is partially screened by existing boundary fencing and planting. Additional soft landscaping could further soften the sites' appearance, and is secured by condition below.

#### Residential Amenity

9.13 The application site is flanked by three residential properties. The static caravan is roughly 2m from the boundary with Sea Shanty (3.5m from the flank wall of the dwelling itself), 10m from the closest boundary with Mardyke (25m from the dwelling itself), and 4.6m from the closest boundary with Magpie Cottage (15m from the dwelling). The existing utility building is roughly 11m from Magpie Cottage, and separated from Mardyke and Sea Shanty by other structures. I do not consider that these single storey structures would cause any undue overlooking, overshadowing, or significant loss of amenity for the neighbouring properties.

9.14 Touring caravans would be stationed away from the boundaries of the site and, due to their relatively small scale, would be unlikely to give rise to any serious amenity impacts.

9.15 The use of the site by a gypsy family would, in itself, cause no more noise or activity than one might expect to experience at any other residential plot.

9.16 I therefore consider that the proposal would have no significant impact on the residential amenities of the neighbouring residents.

#### Other Matters

9.17 I note that, in granting temporary consent for the previous application Members considered (as per the minutes noted above) that "the four year period would allow time for the Council's policy on gypsy site provision to be established and was a reasonable time for a home to be established." The Council's policy on gypsy site provision has now been established by adoption of the 2017 Local Plan, the policies of which make it clear that this site is acceptable for permanent provision.

9.18 There is no reasonable justification, in my opinion, to refuse what is clearly an acceptable site that would make a modest contribution to the Council's supply of pitches.

9.19 I'm not clear on what Members meant by "a reasonable time for a home to be established" but it is clear that the applicant has settled on the site, established a home, and that the application is supported by the local community. The current applicant intends to move her young family off the site, but it is evident that they have been able

to make the site their home and there is no reason why future residents would not do the same.

- 9.20 I have recommended the same conditions as on SW/13/0011 because they remain relevant and appropriate, save for condition 1 (which prevented permanent occupation).

## **10. CONCLUSION**

- 10.1 The application seeks to remove condition 1 of planning permission SW/13/0011 to allow permanent use of the site as a residential caravan site for a gypsy or traveller family. The site is considered to be within a sustainable location, the use is unlikely to give rise to any serious amenity issues, and the site will add a modest contribution to the Council's supply of sites.

- 10.2 Taking the above into account I recommend that planning permission should be granted.

## **11. RECOMMENDATION**

GRANT Subject to the following conditions:

### **CONDITIONS to include**

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 2) No more than one static caravan and two touring caravans shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

- 5) The area shown on the submitted layout as vehicle parking or turning space shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting

that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: In the interest of highway safety and amenity.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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.

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, [www.planningportal.co.uk](http://www.planningportal.co.uk) (search for 'discharge of conditions').

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.





<b>2.2 REFERENCE NO - 19/502204/FULL</b>		
<b>APPLICATION PROPOSAL</b> Change of use of land to use as a residential caravan site for one gypsy family with 2no. caravans, including laying of hardstanding and erection of an ancillary amenity building.		
<b>ADDRESS</b> Land West Of Greyhound Road, Minster-on-sea, Kent, ME12 3SP.		
<b>RECOMMENDATION</b> Grant, subject to receipt of a SAMMS payment totaling £245.56.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development would provide an additional unit of gypsy / traveller accommodation in an area that the Planning Inspectorate has already indicated such uses are acceptable in principle, and without giving rise to any serious additional harm to local or visual amenity.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Minster Parish Council objection.		
<b>WARD</b> Sheppey Central	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mr Levi Cooper <b>AGENT</b> Philip Brown Associates
<b>DECISION DUE DATE</b> 14/08/19		<b>PUBLICITY EXPIRY DATE</b> 24/07/19

**Planning History**

There is no planning history for the application site. Pertinent history for neighbouring sites is set out in the appeal history, below.

**Appeal History:**

There have been no appeals for the application site. Of significant relevance, however, are the appeal decisions for Woodlands lodge (PINS ref. 22085070); The Hawthorns (PINS ref. 3153751); The Peartree (3153750); and Blackthorne Lodge (3153747), which were all granted permanent permission for use as residential caravan sites by the Planning Inspector after a joint appeal hearing. The clear guidance set out by the Inspector subsequently led to the Council granting permanent permission for residential caravan sites at Ivygate (16/505355/FULL); Ramblin Rose (17/501399/FULL); and Three Palms (16/505356/FULL) at planning committee in June 2017.

**1. DESCRIPTION OF SITE**

- 1.1 The application site is a parcel of flat, rectangular land measuring approximately 40m x 10m. It is bordered by Greyhound Road to the east, and scrubby woodland on the other three sides. The site has been cleared and covered in gravel / road planings, and a post-and-wire fence and timber gate have been erected along the frontage. During my site visit there were no caravans on the site.
- 1.2 To the south, further along Greyhound Road, are eight permanent residential G/T sites. On the opposite side of Greyhound Road is a detached dwelling known as The Shack. Brambledown Farm Shop is approximately 1km to the east, and Minster High St. is roughly 2.6km to the northwest.

**2. PROPOSAL**

- 2.1 This application seeks planning permission for change of use of the land to a residential caravan site for one gypsy family, including the stationing of one static caravan and one

touring caravan, the erection of an amenity building, and the laying of hardstanding (this has already been laid and this element is therefore retrospective).

- 2.2 The proposed amenity building would be positioned at the northern end of the site. It would measure approximately 9.2m x 6.4m x 4.3m tall with a pitched roof, and would be constructed of red brick and timber cladding, with grey roof tiles. Internally it will provide an open-plan kitchen / lounge / dining area, a bathroom, and a utility room.
- 2.3 The amenity building will be positioned at the northern end of the site, with space for a touring caravan to be parked in front of it. A static caravan (they are generally of a standard scale and design) will sit at the southern end of the site. The existing vehicle access gate is in the centre of the site.

### 3. SUMMARY INFORMATION

	Proposed
Site Area (ha)	0.04
Parking Spaces	Available within site
No. of Residential Caravans	1
No. of Touring Caravans	1

### 4. PLANNING CONSTRAINTS

- 4.1 None.

### 5. POLICY AND CONSIDERATIONS

#### National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) (Re-issued 2015)

- 5.01 The national policy position in relation to gypsy and traveller applications comprises the National Planning Policy Framework 2019 (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS). Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 5.02 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

*Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe*

*built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and*

5.03 In relation to rural housing the NPPF (at paragraph 78) states;

*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*

5.04 Paragraph 79 continues:

*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
- e) the design is of exceptional quality, in that it:*
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

5.05 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*

*f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

5.06 Of particular relevance here is paragraph 178, which states:

*Planning policies and decisions should ensure that:*

*a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*

*b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*

*c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

5.07 Para. 179 continues;

*Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

### **Planning Policy for Traveller Sites (PPTS)**

5.08 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims 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)*

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

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

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

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

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

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

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

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

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

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

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

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

- 5.12 Finally, the definition of gypsies and travellers was 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 such.”*

- 5.13 The Council responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation, adopting a GTAA and carrying out additional work on the (then emerging) Local Plan.

### **Swale Landscape Character and Biodiversity Appraisal SPD 2011**

- 5.14 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Central Sheppey Farmlands area where the document advises that the landscape should be “restored and created” by “*avoiding proposals that would be unduly prominent*” and by maintaining existing landscape features, such as trees, hedgerows, or woodlands. I do not consider that landscape impact is a significant potential objection to development here.

### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- 5.15 The Local Plan was adopted in 2017 following a formal review and adoption process. The key adopted policy to deal with windfall planning applications for new sites is DM10 (Gypsy and Traveller sites), which states:

#### ***Part A: Retention of sites for Gypsies and Travellers***

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

### **Part B: Gypsy and Traveller sites**

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

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

5.16 Other relevant Local Plan policies are:

- CP4 (good design). This polices all developments to be of a high standard of design and to contribute positively to the character of the area.

- 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. Here, new development will not be permitted unless it has an intrinsic reason for being there and it will protect and/or enhance the countryside. The appeal site is in such a poorly located position and subject to the strictest restraint on new development.
- DM6 (vehicle access) sets out that all new developments need to provide safe, appropriate access to the highway network.
- DM24 (protected landscapes). This policy refers to landscape character areas and the need to protect or enhance their identified qualities.

### Five year supply position

- 5.17 The Council undertook a new GTAA following adoption of the Local Plan, and this was completed in November 2018. The assessment covers the period 2017/18 to 2037/38, and identifies a PPTS definition-compliant need of 30 pitches in the short-term 5 year period, and a further 29 pitches to 2037/38. With reference to the cultural need also set out within the assessment, and since the revised definition of who is considered a traveller, it has been commonplace within GTAA methodology to calculate a cultural need (i.e. for all those who identify as gypsies and travellers) and then extract a PPTS need (i.e. for those who meet the revised definition) from it. Footnote 25 of the NPPF clearly sets out that the need to provide for travellers (as set out in paragraph 61) is for the definition as set out within the PPTS. As such, within the context of planning for pitches, the cultural need does not add to the Council's need.
- 5.18 Based on the GTAA, and taking into account the Council's current supply position, the following can be said:
- current 5 year pitch need = 13.75;  
current annual pitch need = 2.75;  
current supply of pitches = 16;  
current 5 year supply = 5.8 year supply.
- 5.19 The Council can therefore **currently** demonstrate a 5 year supply of deliverable sites, but windfall sites such as this contribute to the longer-term supply over the plan period to 2031 and provide some security when having to defend refusals on more marginal sites.
- 5.20 Finally, the Government's Chief Planner announced on 31 August 2015 (the same day PPTS was re-issued) a policy that, from that date, in all applications and appeals that involve intentional unauthorised development this fact can be a material planning consideration. In this case the site has been cleared and fenced – but not occupied – although given my assessment below I do not consider this should weigh heavily against the applicant.

## 6. LOCAL REPRESENTATIONS

- 6.1 None received.



## 7. CONSULTATIONS

### 7.1 Minster Parish Council objects to the application, commenting:

*“This application, if approved, would constitute a further encroachment on the remaining long-established woodland which until recently characterised Greyhound Road. As such, it would further compromise the environmental and visual amenity of the area. Minster-on-Sea Parish Council agrees with the Inspector's decision in the 2014 Appeal, who expressed his concern about a new gypsy site in Greyhound road that, by replacing woodland with hard standing appeared “incongruous and out of place” giving it “a more built-up appearance, which materially harms its rural character”. This will be exacerbated by the orientation of the new site, which runs alongside Greyhound Road, rather than (as with previous sites) at right angles to it, so that both caravans and amenity buildings will be particularly visible in the rural landscape. Approval of this application will serve to legitimise the further destruction of this remnant of woodland in favour of development and undermine any efforts to protect it.*

7.2 Natural England note that a SAMMS payment is required to mitigate any potential harms to the SPA arising from increased residential use of the SPA. This can be secured by the Council's standard SAMMS pro-forma.

7.3 KCC Highways & Transportation have no comments save to note this falls below their protocol response threshold, and to suggest a standard informative (as set out below).

7.4 The Council's Environmental Health officers have no objection.

## 8. BACKGROUND PAPERS AND PLANS

8.1 The application is accompanied by a site location plan, proposed layout, elevations of the proposed amenity building, and a supporting statement. The supporting statement sets out that the applicant is a gypsy with local connections (most significantly he is related to the residents of The Hawthorns, who lived in a house for a number of years while married, but has been living in caravans and travelling again for the last 5 years).

8.2 The appeal decisions noted above are also of relevance.

## 9. APPRAISAL

### Principle of development

9.1 The PPTS, as set out above, aims to (para. 4) e) promote more private traveller site provision, h) increase the number of traveller sites in appropriate locations to maintain an appropriate level of supply, and j) enable provision of suitable sites from which travellers can access education, health, welfare and employment infrastructure.

9.2 As noted above: PINS granted permanent permission for three sites along Greyhound Road: The Hawthorns (15/502191/FULL), The Peartree (15/502237/FULL), and Blackthorne Lodge (15/503278/FULL). These decisions set a very clear marker for the Council in terms of how it should be dealing with applications at Greyhound Road.

9.3 Officers and Members had previously taken a negative stance to permanent residential caravan sites in this location as it was considered to be remote from services, poorly accessible, and harmful to the character and amenity of the countryside. However, the appeal Inspector allowed the three appeals and *fundamentally* disagreed with the

Council on all of the above aspects, most notably citing that the built form of Minster had extended southwards along Scocles Road such that Greyhound Road is now very close to the built up area, and therefore can be considered a sustainable location for such uses. The Council had these decisions reviewed by barristers, who advised that there were no grounds on which to challenge the Inspector's findings.

- 9.4 This therefore gave the Council a very clear direction for further applications on Greyhound Road, and led to the planning committee approving Ivygate (16/505355/FULL), Ramblin Rose (17/501399/FULL) and Three Palms (16/505356/FULL) at the June 2017 meeting.
- 9.5 The principle of permanent permission here is therefore, in my opinion, demonstrably acceptable.

#### Location and accessibility

- 9.6 The Council previously considered Greyhound Road to be a remote location, but the appeal Inspector noted that the expansion of Thistle Hill has brought the built up area boundary to within 800m of the site. The appeal decision comments:

*"It is pertinent to consider the changes being brought about by the continued development at Thistle Hill. Whilst much is built-out and the Council state a high degree of pre-sales, and whilst the community centre and school are in place, the provision of the planned shops appears to have stalled. That would provide a ready access for the site, and a level of integration with the new settled community. It is clear that there is development to the north of the proposed central site for the shops still to commence and that may provide the critical mass of demand necessary to bring about the provision."*

- 9.7 Members should note that, since that appeal decision in 2017, the Minster retail parcel has been granted permission and the Co-op are making a start on site, further enhancing the Inspector's stance on the sustainability of this location. He continues:

*"It was asserted at the Hearing that the traveller lifestyle is likely to involve the use of private transport in any event, and that journeys would often combine shopping and the school run with other needs to make use of such transport for work, where the use of public transport, even if available, would not be appropriate. Certainly the traveller lifestyle is based on the need to travel in search of work, but there would be times when work is found closer to home and requiring only day-trips. Such a pattern of work would allow those other journeys to be undertaken at the same time, but would require of necessity, private transport. That aspect of the lifestyle is accepted in paragraph 13 h) of Planning Policy for Traveller Sites which states that some travellers live and work from the same location thereby omitting many travel to work journeys, which can contribute to sustainability.*

*... the site is not so remote as to make it unduly difficult to gain ready access to facilities, and Planning Policy for Traveller Sites does provide at Policy C for sites in rural areas."*

- 9.8 The Inspector concludes this issue very clearly at para. 29 of their decision:

*"In conclusion on this issue, the site is outside the settlement boundary, but less remote than at the time of an appeal decision at Woodlands Lodge, due to the progress being made with the Thistle Hill expansion. In the balance between a desirable social inclusion and the operational needs of a traveller*

*site for a countryside location, the situation of Greyhound Road is appropriate and acceptable, in accordance with emerging Policy DM10 and national policies.*

- 9.9 Given this unequivocal stance, and the council's subsequent grant of permission on further sites at Greyhound Road off the back of the Inspector's position, I find it very hard to conclude differently on the matter in respect of the current application. Greyhound Road is, partly due to recent expansions at Thistle Hill, now in an acceptable position in terms of access to local shops and services, and it is recognised that the traditional gypsy way of life includes vehicle movements. It would be remiss of the Council to go against this established stance, and I do not consider that we have any evidence to argue to the contrary.

#### Visual Impact

- 9.10 The PPTS states that *"Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure."* It is worth noting that the word "very" was added to this paragraph in the 2015 re-issue of PPTS which implies to the Council that whilst there is still no outright ban on approving sites in open countryside, there is a need to give greater weight to the harm that sites such as this can do to the character of open countryside.
- 9.11 However, the Planning Inspector was, again, very clear in his conclusions on this aspect, commenting that additional landscaping would reduce the prominence and visual impact of the various sites along Greyhound Road, and that in long distance views (from Elm Lane, for example) the sites blended into the wider landscape and were (para.19 of the appeal decision) *"largely subsumed into the flat land leading down to the Swale, the eye being drawn to the attractive estuarial landscape and distant features...the effect on the wider area is limited."*
- 9.12 Therefore the imposition of standard landscaping conditions would accord with the Inspector's recommendations, and mitigate the appearance of the site appropriately. I also note that the site is tucked within a small woodland at the northern end of Greyhound Road, which will screen views of the site from Lower Road and other public vantage points outside of Greyhound Road – more-so than many of the existing sites as they have less space for dense planting along their western boundaries.
- 9.13 I note the Parish Council refer to loss of the woodland along Greyhound Road, which was substantially larger prior to site clearance works carried out in approximately 2010 by a previous landowner. It should be noted that, whilst loss of woodland is generally regrettable, the trees were not subject to any formal protection and could have been removed by the landowner at any time and for any reason. A dense strip of tree planting / hedgerow has been retained along the western boundary of the various caravan sites along the road, and an area of woodland is retained around the current application site. Furthermore the Parish Council refer to an appeal decision from 2014, which has been superseded by the more recent one referred to above, and therefore holds much less weight in my opinion.

#### Residential Amenity

- 9.14 There is a dwelling on the opposite side of Greyhound Road, but I do not consider that residential use of the site would give rise to any serious issues of amenity in itself.

Highways and parking

9.15 The junction of Greyhound Road and Lower Road has good visibility in both directions and the addition of one residential unit on the road is unlikely to give rise to vehicle movements in excess of what the network can handle. I have no serious concerns in this regard.

9.16 There is space within the site to park and turn a car.

Other matters

9.17 The principle of development aside, the site will be able to cater for the applicant's daily needs; there is access to local healthcare facilities, schools, and shops (albeit by driving, as noted above), and I note that other residents along the road seem to have settled down well. I have noted a good sense of community when visiting Greyhound Road, and each of the sites are generally well maintained and tidy.

9.18 Approval of this application would result in an additional permanent gypsy / traveller pitch being added to the Council's figures, which reduces the need to provide such accommodation elsewhere, on potentially more sensitive land, and provides the Council with some security (in terms of provision) when having to defend refusal of permission on more marginal sites elsewhere.

9.19 I have suggested conditions to match the neighbouring sites on Greyhound Road.

9.20 Because this proposal would result in an additional unit of accommodation a contribution will be required to mitigate any potential impacts upon the integrity of the SPA, as set out by Natural England. Should Members decide to approve this application such a payment can be secured quickly and easily by completion of a pro-forma and an online payment. Subject to this contribution I have no serious concerns in respect of ecology and biodiversity. An Appropriate Assessment (under the Habitat Regulations) is set out below.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

9.21 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

9.22 The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

9.23 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.

9.24 The proposal therefore has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

9.25 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation

and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

- 9.26 The April 2018 judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.
- 9.27 However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out below.
- 9.28 Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions 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 that such strategic mitigation must be in place before the dwelling is occupied.
- 9.29 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.
- 9.30 Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.
- 9.31 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by unilateral undertaking) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.
- 9.32 It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).

## **10. CONCLUSION**

- 10.1 The application seeks permission for a permanent residential caravan site in an area where such use has been determined to be acceptable by the Planning Inspectorate, and where the Council has approved such uses on neighbouring plots. I consider that use of the land for residential purposes, subject to the conditions set out below, would not give rise to any significant issues of amenity, harm to the character and appearance of the countryside, or highway safety and amenity.
- 10.2 Taking the above into account, and subject to receipt of a standard SAMMS payment (as set out above), I recommend that planning permission should be granted.

## **11. RECOMMENDATION**

GRANT Subject to the receipt of a SAMMS payment and the following conditions:

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

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 details of the external finishing materials to be used on the amenity building hereby permitted have been 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 visual amenity.

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

- 4) No more than one static caravan and one touring caravan shall be stationed on the site at any one time.

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In recognition of the terms of the application, and because an uncontrolled use of the land would be unacceptably detrimental to the character and amenities of the area.

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

Reason: In the interests of preventing light pollution.

- 7) 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, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

- 8) 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.

- 9) 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.

- 10) The site shall not be occupied until the implementation of a surface water drainage strategy that has previously been submitted to and approved in writing by the Local Planning Authority demonstrating that surface water drainage discharge into the local watercourse is attenuated for the 1:100 year return storm with a limited discharge of 7 litres per second per hectare. The approved scheme shall thereafter be retained throughout the duration of the use of the site.

Reason: To ensure the use does not give rise to concerns over localised flooding.

- 11) No building or structure shall be erected or stationed within 8 metres of the adopted drainage ditch to the west of the site.

Reason: To ensure the use does not give rise to concerns over localised flooding.

## INFORMATIVES

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

## The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused

on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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

If your decision includes conditions, there is a separate application process to discharge them. You can apply online at, or download forms from, [www.planningportal.co.uk](http://www.planningportal.co.uk) (search for 'discharge of conditions').

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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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<b>2.3 REFERENCE NO - 19/503528/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Demolition of existing garage, outbuilding and boundary wall. Erection of 3no. detached, three bedroom dwellings with associated landscaping, parking and access.			
<b>ADDRESS</b> The Vicarage Church Lane Newington Sittingbourne Kent ME9 7JU			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
The site lies within the built-up area boundary of Newington and is therefore considered to be a sustainable location for new housing development of a scheme of this size. There is a general need for additional houses across the borough and I consider that this scheme would go some way towards contributing toward this need. Therefore the principle of development is acceptable.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Parish Council Objection			
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Newington	<b>APPLICANT</b> Mr Julian Hills <b>AGENT</b> John Bishop And Associates	
<b>DECISION DUE DATE</b> 10/10/19		<b>PUBLICITY EXPIRY DATE</b> 12/09/19	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
14/504665/FULL	Demolition of existing garages and boundary wall and construction of three detached 3 bedroom house with associated landscaping parking and access	Approved	15.10.2016
SW/14/0180	Demolition of existing garages and boundary wall and construction of one detached 3 bedroom house, two 3 bedroom semi-detached houses and a terraced house consisting of two four bedroom units and one three bedroom unit with associated landscaping, parking	Withdrawn	14.08.14

## 1. BACKGROUND

- 1.1 Planning permission for a similar scheme was granted by the Planning Committee 15th October 2016 under reference 14/504665/FULL. The applicants were unable to implement the permission before the end of the three year period for commencement of development and that permission has now expired.

- 1.2 Only minor changes are proposed to this application which include the reconfiguration of the parking layout and associated changes to the landscaping.

## 2. DESCRIPTION OF SITE

- 2.1 The application site totals 0.18ha and lies within the built-up area boundary of Newington. The site currently comprises the side and rear garden of The Vicarage, a large detached two storey dwelling. The former, now disused, church hall (a small pitched roof building) and a flat roof garage with a parking space to the front are located close to Church Lane. The ground is relatively flat across the site but is approximately 1m higher than Church Lane and the adjacent housing at Vicarage Court to the north.
- 2.2 There is a TPO (TP no. 2/2014) tree located to the front of the existing dwelling. This would be untouched by the proposal. There are a number of mature trees within the application site. The site lies 160m to the north of the Newington High Street Conservation Area and 157 metres to the south of the Newington Church Conservation Area.
- 2.3 The surrounding area is characterised by residential properties of different types and designs. The land to the west of the application site is used for agricultural purposes.

## 3. PROPOSAL

- 3.1 The proposal is for the erection of three detached two storey dwellings. A new vehicular access is proposed off Church Lane and this would provide access to the parking spaces for the existing and proposed dwellings. The existing access would be reinstated as footway. Two parking spaces are shown to be provided for the existing dwelling and two parking spaces are proposed for each of the new dwellings with three additional spaces available for visitors. The existing outbuilding, flat roof garage and front boundary wall would be demolished and some of the existing trees (excluding the TPO tree) would be removed.
- 3.2 Each property would have generously sized rear gardens. The houses would have pitched roofs with gable features, chimneys and canopies outside the front doors. The main ridge heights would be 500mm higher than The Vicarage and roughly the same height as the properties to the south.
- 3.3 Unit 1 would be located towards the front of the site, close to no. 65 Church Lane and set forward of The Vicarage by 10m. Units 2 and 3 would be located towards the rear of the site, behind The Vicarage. There would be a distance of 21m between the rear elevation of The Vicarage and the front elevation of unit 3.

## 4. SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	1826m <sup>2</sup>	800.5m <sup>2</sup> (The Vicarage – retained)	
Approximate Ridge Height (m)	7.5m <sup>2</sup> (The Vicarage)	8m	

Approximate Eaves Height (m)	5m (The Vicarage)	5m	
No. of Storeys	2	2	
Net Floor Area	107m <sup>2</sup>	2	
Parking Spaces	2	11	9
No. of Residential Units	1	4	3
No. of Affordable Units	0	0	0

## 5. POLICY AND CONSIDERATIONS

- 5.1 National Planning Policy Framework (NPPF): Paras 8 (three dimensions of sustainable development); 10, 11 (presumption in favour of sustainable development); 47 (Determining applications); 54, 55, 56, 57 (planning conditions and obligations); 61 (delivering sufficient supply of homes); 124, 127, 128, 130, 131 (good design).
- 5.2 National Planning Practice Guidance (NPPG): Design.
- 5.3 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 – Policies ST1 (Delivering sustainable development in Swale); ST2 (Development targets for jobs and homes 2014-2031); ST3 (The Swale settlement strategy); ST4 (Meeting the Local Plan development targets); ST5 (The Sittingbourne Area Strategy); CP2 (Promoting sustainable transport); CP3 (Delivering a wide choice of high quality homes); CP4 (Requiring good design); DM7 (Vehicle parking); DM14 (General development criteria); DM19 (Sustainable design and construction); DM21 (Water, flooding and drainage).

## 6. LOCAL REPRESENTATIONS

- 6.1 Newington Parish Council Objection; for the reason summarised below:
- Aimed to improve diocesan finances rather than parochial benefits
  - Traffic congestion
  - Impact upon residential amenity – air quality
  - Windfall site
- 6.2 The Council received four letters of representations all of which objected to the application. Summary of objections on the following grounds:
- Unsustainable development – impact upon environment
  - Overdevelopment – loss of village
  - Loss of trees and natural habitat
  - Impact upon residential amenity – loss of privacy
  - Parking congestion
  - Highway safety
  - Flood risk – increased risk on infrastructure

## 7. CONSULTATIONS

- 7.1 The Environmental Health Manager does not raise objection subject to conditions in respect of electric vehicle charging points, low NOx boilers, hours of construction and dust suppression during construction.
- 7.2 Natural England: Since this application will result in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s)

may result from increased recreational disturbance. Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound.

- 7.3 KCC Highways: The scheme does not warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

## **8. BACKGROUND PAPERS AND PLANS**

- 8.1 Existing and proposed plans and elevations; site location plan; Arboricultural Survey, Bat Emergency Survey; Habitat Survey, Reptile Survey; Design and Access Statement

## **9. APPRAISAL**

### **Principle of development**

- 9.1 The site lies within the built-up area boundary of Newington and is therefore considered to be a sustainable location for new housing development of a scheme this size. There is a general need for additional houses across the borough and I consider that this scheme would go some way towards contributing toward this need. I therefore consider that the proposal would be acceptable in principle.
- 9.2 In addition to housing, the proposal also seeks the demolition of existing garage, outbuilding and boundary wall fronting the eastern boundary. These structures are not located within a curtilage of a listed building, nor is the proposal located within a conservation area. As such the principle of demolition is acceptable subject to consideration on visual impact discussed in further detail below.

### **Visual Impact**

- 9.3 The most prominent of the proposed dwellings would be unit 1. This would be a comparable height and scale to the adjacent houses and in my opinion would be of a good standard of design. The surrounding properties are a mix of types and design and the proposal would simply add to this mix whilst respecting the more traditional and rural feel of the village. The two proposed dwellings to the rear would be far less prominent from Church Lane and I am of the view that the same conclusions reached for unit 1 apply to these properties. I consider it sensible to remove permitted development rights for extensions and alterations to the dwellings, in order to control future works which might compromise the design quality and therefore the visual impact of the development.
- 9.4 The proposal shows a 4.8m wide hard surfaced road and vehicle entrance which is a reduction in the previous scheme. The existing pedestrian entrance has been maintained albeit changes to surface materials and landscaping and overall I consider that a reasonable level of landscaping has been maintained fronting Church Road. As such, the development would not detract from the visual amenities of the area and would achieve a good standard of design that it in-keeping with the character and appearance of the area.

### **Residential Amenity**

- 9.5 The proposed dwellings would be positioned so that there would be very little, if any, overshadowing or overbearing impact. Unit 3 would be a sufficient distance (21m)

from the rear of The Vicarage to ensure that there would be no mutual overlooking introduced between these properties. The 21m separation will ensure that overlooking from unit 3 into the rear garden of The Vicarage causes no significant harm to the residents of this existing property. Unit 3 would be further still from the rear of the flats within Vicarage Court, thereby ensuring that mutual overlooking between windows is minimised and causes no significant harm. Considering the position, orientation and windows within the fenestration no adverse amenity impacts have been identified for Units 1 or 2.

### **Highways**

- 9.6 A total of 11 vehicle parking bays are proposed. The current parking standards stipulates that a dwelling with 3 or more dwellings has a requirement of 2 accessible spaces per dwelling with a minimum size requirement of 2.5m x 5m which has been achieved in this instance with 3 additional spaces for visitors.
- 9.7 The proposal would introduce parking immediately to the front of The Vicarage and to unit 1. Whilst this can often result in parking dominating the street scene, in this case, the spaces are set back from the back edge of the footpath and there is a very large front garden area to the front of The Vicarage which is turfed and has trees, including the protected TPO tree. This would ensure that parking does not dominate this frontage. In terms of the visual impact of a parking space to the front of unit 1, I am of the view that, as with the parking for The Vicarage, the front garden can adequately accommodate one parking space without detriment to visual amenities.

### **Landscaping**

- 9.8 Turning to landscaping, policy CP4 of the adopted local plan emphasises the retention of existing trees, hedgerows and other features which contributes to the character and quality of the area, whilst encouraging planting of trees and hedgerows as appropriate using native species. Policy DM14 requires the provision of an integrated landscape strategy that would achieve a high standard of landscaping scheme within the development. I note that the submission indicates the removal of a number of existing trees, however the two existing TPO's would be retained. The proposal is complemented by additional planting and well created landscaped amenity areas around each dwelling to help the development assimilate well within its surroundings.

### **Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.**

- 9.9 Since this application would result in a net increase in residential accommodation on the site, impacts to the SPA and Ramsar sites may occur from increased recreational disturbance. An HRA/AA is appended below. Due to the scale of the development there is no scope to provide on site mitigation and therefore off site mitigation is required by means of developer contributions at the rate of £245.61 per dwelling. The agent has provided written confirmation that the applicant would be willing to pay this mitigation fee.

## **10. CONCLUSION**

- 10.1 The proposal entails development within the built up area boundary which is acceptable as a matter of principle. I consider an additional 3 units can be reasonably accommodated within the site without giving rise to unacceptable impacts to residential or visual amenities. As such I recommend this application is approved.

## 11. RECOMMENDATION

GRANT Subject to the following conditions

### CONDITIONS to include

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in accordance with the following approved plans as amended: 19-009/01 Rev A, 19-009/02 Rev A & 19-009/03 Rev A

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

3. 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, means of enclosure, hard surfacing materials, and an implementation programme.

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

4. 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 a programme agreed in writing with the Local Planning Authority

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

5. Upon completion of the approved landscaping scheme, any trees or scrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with tree 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 interest of visual amenities of the area and encouraging wildlife and biodiversity.

6. 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 interest of the amenities of occupiers of neighbouring properties.

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

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

8. Provision and maintenance of 1m x 1m pedestrian visibility splays behind the footway on both sides of the access with no obstructions over 0.6m above footway level, prior to the use of the site commencing.

Reason: In the interests of pedestrian and highway safety.

9. 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, renewable energy production including the inclusion of solar thermal or solar photovoltaic installations, 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.

10. The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (As amended) has been given to the Building Control Inspector (internal or external).

Reason: In the interests of water conservation and sustainability.

11. The commencement of the development shall not take place until a programme for the control and suppression of dust during the construction & demolition phase has been submitted to and approved in writing by the Local Planning Authority. The programme shall include monitoring & mitigation details in accordance with the Institute of Air Quality Management (IAQM) Guidance on the Assessment of Dust from Demolition & Construction. The measures approved shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Reason: In the interests of residential amenity.

12. Notwithstanding the provisions of Classes A, B, C, D, E and F of Schedule 2, Part 1, Class A Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that order, with or without modifications), no works shall be carried out without the prior permission of the Local Planning Authority, obtained through the submission of a planning application.

Reason: To prevent the overdevelopment of the site and to safeguard the living conditions of occupiers of adjoining properties and the appearance of the streetscene

13. All gas fired boilers to meet a minimum standard of <40mgNOx/Kwh.

Reason: In the interests of air quality and reducing pollution

14. Each dwelling shall be provided with 1 electric vehicle charging point and no dwelling shall be occupied until the charging point for that dwelling has been installed.

Reason: To encourage the use of electric vehicles, in the interests of climate change and reducing pollution.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.

### **Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.**

This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.

The application site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advise that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation and site remediation satisfactory to the EA, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, *“it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.”* The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group.

However, the proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report.

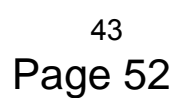
Notwithstanding the above, NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

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 (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (which has been secured prior to the determination of this application) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others (<https://birdwise.org.uk/>).



<b>2.4 REFERENCE NO - 17/505657/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of replacement security lodge. (Retrospective)		
<b>ADDRESS</b> Sheerness Holiday Park Halfway Road Minster-on-sea Sheerness Kent ME12 3AA		
<b>RECOMMENDATION</b> Grant		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development would provide a dedicated security presence on the site through the closed season (as is common on most parks on the Island) without giving rise to any serious amenity concerns.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection.		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Cosgrove Leisure <b>AGENT</b> Barron Edwards Ltd
<b>DECISION DUE DATE</b> 15/01/18	<b>PUBLICITY EXPIRY DATE</b> 26/12/17	

**Planning History**19/500630/FULL

Erection of a single storey side and rear extension to the clubhouse and single storey side extension to pool building to provide a spa and a gymnasium area.

Approved      Decision Date: 22.05.2019

18/506581/FULL

Erection of replacement maintenance shed. (Resubmission of 15/505069/FULL with reduced height and revised elevation treatment – see appeal history, below.)

Refused      Decision Date: 15.02.2019

18/504034/LDCEX

Lawful Development Certificate (Existing) for use of part of approved caravan park for the stationing of static and/or touring caravans on land identified as area E without compliance with condition 4 of NK/4/68/333 (which required area E to be used for car parking).

Approved      Decision Date: 29.05.2019

17/502567/FULL

Variation of condition 2 of SW/12/0080 to allow up to three caravans on the site to be occupied on a year-round basis by staff employed on the caravan site.

Refused      Decision Date: 01.05.2019

16/507745/SUB

Submission of Details Pursuant to Condition 2 - Materials of planning permission  
15/505196/FULL

Approved      Decision Date: 09.01.2017

15/505196/FULL

Demolition of existing security lodge and erection of a replacement security lodge. Erection of a single storey extension to the western side of the club house.

Approved      Decision Date: 03.12.2015

15/507354/LDCEX

Lawful Development Certificate (existing) - Use of land for siting of caravans on land originally designated as being for car parking or recreation purposes

Approved      Decision Date: 06.11.2015

15/505069/FULL

Erection of replacement maintenance shed, 2.5m high palisade fencing surrounding the building to create a compound in addition to a concrete hardstanding

Refused      Decision Date: 27.06.2017

SW/12/0080

Variation of conditions (ii) of NK/4/68/333 and (iii) of SW/79/1435 to extend the seasonal occupancy period from 1st March-31 October in any year to 1st March-3rd January in any year.

Approved      Decision Date: 27.04.2012

NK/4/68/333

The original grant of planning permission for use of the land as a holiday caravan park.

Approved      Decision Date: 1968

**Appeal History:**19/500084/REF

Erection of replacement maintenance shed. (Resubmission of 15/505069/FULL with reduced height and revised elevation treatment)

Appeal Dismissed.      Decision Date 28.11.2019

18/500012/ENF and 18/500013/REF

Linked planning and enforcement appeals against refusal of retrospective planning application ref. 15/505069/FULL and consequent service of an enforcement notice against the construction of a maintenance shed and erection of 2.5 metre high palisade fencing surrounding the building.

Appeal Dismissed.      Decision Date: 24.08.2018

**1. DESCRIPTION OF SITE**

- 1.1 Sheerness Holiday Park is situated on the Halfway Road to the south of Sheerness, and comprises 341 static caravan pitches across approximately 12 hectares. Halfway Road lies adjacent to the western boundary of the site and the park is bounded on all sides by chain link fencing.

## 2. PROPOSAL

- 2.1 This application seeks retrospective planning permission for the erection of a security lodge at the front of the site, adjacent to the car barrier arm.
- 2.2 The security lodge in question is set back from Halfway Road and positioned directly adjacent to the private access road into the site. It is a single storey building similar to a residential bungalow, measures approximately 6.8m x 11m x 4.8m high to the ridge, and is finished in white render and concrete roof tiles. Internally the building is divided into two self-contained halves: one side provides a security office and WC, the other half provides a living space comprising two bedrooms, a lounge, shower room, and WC.
- 2.3 Planning permission was granted (ref. 15/505196, as above) for the erection of a security lodge in this position but of smaller dimensions, measuring 4.9m x 9.6m x 4.5m tall, and with one open plan sleeping / living area attached to an office. What has been built on site, however, is as set out above, and this application therefore seeks to regularise the existing development.

## 3. SUMMARY INFORMATION

	Existing	Previously Approved	Change (+/-)
Approximate Ridge Height (m)	4.8	4.5	+ 0.3
Approximate Eaves Height (m)	2.4	2.6	- 0.2
Approximate Depth (m)	11	9.6	+ 1.4
Approximate Width (m)	6.8	4.9	+ 1.9

## 4. PLANNING CONSTRAINTS

- 4.1 The site lies within an area of potential archaeological importance and flood zone 3.

## 5. POLICY AND CONSIDERATIONS

- 5.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) generally encourage tourism development, but also aim to restrict new development within the countryside.
- 5.2 Policies DM4 (extensions to holiday parks), DM5 (occupancy of holiday parks) and DM14 (general criteria) of the adopted Swale Borough Local Plan 2017 – “Bearing Fruits” – are relevant.
- 5.3 DM4 states that *“permission will be granted for the upgrading and improvement of existing static holiday caravan and chalet sites,”* while DM5 aims to ensure that holiday chalets are not occupied for 12 months in order to prevent them from becoming full-time residential dwellings.

## 6. LOCAL REPRESENTATIONS

- 6.1 None received.

## 7. CONSULTATIONS

- 7.1 Minster-on-Sea Parish Council objects to the development, commenting:

*“The provision of a double bedroom in addition to a single bedroom constitutes a domestic dwelling. Permanent year-round occupation of the single storey accommodation would place people at risk in an area of risk of tidal flooding where the 10-month occupancy requirement must apply. Minster-on-Sea Parish Council's preference would be to see the previously approved application reinstated / implemented.”*

7.2 Natural England has no comments.

7.3 The Environment Agency has directed officers to their standing advice, which sets out that staff sleeping / residential accommodation within FZ3 is subject to the exceptions test (discussed below).

7.4 The Council's Economy and Community Services Manager comments that *“significant investment has been made into this holiday park in recent years and it is not unreasonable for the park owners/management to wish to protect that level of investment through the provision of support infrastructure. The park is easily accessible and the security lodge provides a physical on-site presence which indicates that there is likely to be a good intention towards asset management and investment to date.”*

## **8. BACKGROUND PAPERS AND PLANS**

8.1 The application is accompanied by relevant plans and drawings.

8.2 The decision notice for 15/505196 is particularly relevant.

## **9. APPRAISAL**

9.1 The application site lies within an established holiday park where, as above, adopted policy DM4 states that permission will be granted for improvements and upgrades.

9.2 It should also be noted that permission has already been granted for a security lodge in this location. The delegated report for 15/505196 sets out:

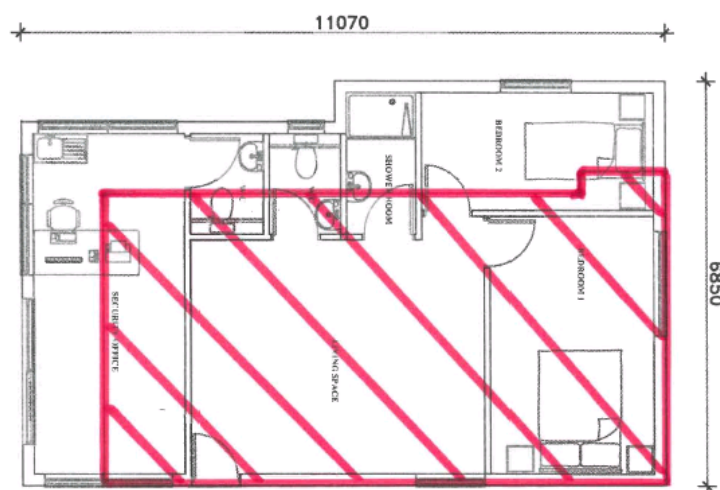
*“In this case I take the view that firstly, a security hut of increased size would provide for a better and more spacious working environment for security personnel. The existing security hut is small scale and its flat roof design is of little architectural merit. The replacement hut will provide an improved facility for the staff and its pitched roof design would be an upgrade upon the existing flat roofed structure. The security hut will be located along the access way into the holiday park and some 18m away from the closest chalet, as such I do not believe that the security hut would have an unacceptable impact upon amenity and is acceptable. It is also situated back from the main road, and would not seriously impact the street scene in my opinion.”*

9.3 The principle of a security lodge in this location has been established. Therefore what falls to be considered here is whether the scale and design of the lodge as built is acceptable, and whether it would give rise to any amenity concerns.

9.4 Firstly, the site is removed from any residential dwellings and there are unlikely to be any serious issues of residential amenity arising from the development. I have no serious concerns in this regard.



- 9.5 The building is of an acceptable design in my opinion. It resembles a small bungalow, the external finish is of a good standard, the building is set back from the road and viewed against the backdrop of the surrounding caravan park (in which there are a number of other brick-and-mortar buildings); and it is not an obtrusive or particularly harmful structure within the context of the site or the wider countryside.
- 9.6 I also consider the building to be of an acceptable scale. It is slightly larger than the previously-approved security hut (as set out at section 3 above) but not excessively so, the greatest change being a 1.9m increase in the width. However, as with its design, the scale of the building is not such that it appears out of place within the context of the wider site, or significantly harmful to the appearance of the wider countryside. I would also re-iterate that permission has previously been granted for a building in this location.
- 9.7 I note the Parish Council's objection to the scale of accommodation provided within the building. The previously-approved building had a floor area of approximately 47sqm; the building subject to this application has a floor area of approximately 74sqm – an increase of 27sqm. This sounds like a considerable difference, but in reality amounts to a relatively modest increase on the ground. The overlay sketch below shows the previously approved floorplan hatched in comparison to the floorplan seeking approval.



- 9.8 The provision of two bedrooms within a security lodge is not in itself cause for concern. It is usually the case that a caravan is used as a security lodge during the off season, with the occupant staying in their caravan with their family. The layout as built provides a similar level of accommodation to a caravan, and would allow for a park tenant to relocate into the security lodge during the closed season, or for wardens to work in shifts if required. It should also be noted that the internal partition walls within the previously approved building could have been repositioned to provide a smaller office and larger living area without the need for planning permission.
- 9.9 The security lodge also ensures that no other caravans on the park need be occupied for the purposes of site security during the closed season, which provides a very simple and effective enforcement starting point should concerns ever arise. The Council has also refused permission for three caravans to be occupied as warden's chalets (ref. 17/502567) on the basis of the security hut providing a permanent solution.

9.10 The site is within Flood Zone 3 but the park has a comprehensive flood risk assessment and evacuation/management plan which have been agreed under previous applications, and to which the EA had no objection. In this instance, however, because the unit will provide accommodation year-round and lies within FZ3 it can only be considered acceptable if it passes the exceptions test. The exceptions test directs Councils to consider whether there is a particular need for “water sensitive” development to be located within the flood zone and, in this instance, I consider that there is an identified site security need which justifies the provision of accommodation (as set out above). In that regard, and with the added resilience of the site evacuation/management plan, I have no serious concerns in regards flood risk and consider the development acceptable as regards flood risk.

## **10. CONCLUSION**

10.1 This application seeks retrospective planning permission to regularise the erection of a security lodge which was not constructed in accordance with the previously agreed plans. The building is of an appropriate scale and design, does not give rise to any serious amenity concerns, and provides a permanent security solution for the site so removes the need for any caravans to be occupied in the closed season.

10.2 Taking the above into account I recommend that planning permission should be granted.

## **11. RECOMMENDATION**

Grant subject to the following condition:

- 1) The occupation of the building shall be limited to a person solely or mainly employed as a security warden at the site and any dependent of such a person residing with them.

Reason: The site lies outside any area in which planning permission would normally be granted for a new dwelling

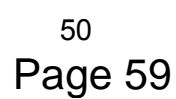
### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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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<b>2.5 REFERENCE NO - 19/505850/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of single storey rear extension.		
<b>ADDRESS</b> 63 Newton Road Faversham Kent ME13 8DZ		
<b>RECOMMENDATION</b> Grant subject to no contrary representations being received (consultation period ends 30.12.19)		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Applicant is an employee of Swale Borough Council		
<b>WARD</b> Abbey	<b>PARISH/TOWN</b> Faversham Town	<b>COUNCIL</b> <b>APPLICANT</b> Mr Rob Bailey <b>AGENT</b> Wyndham Jordan Architects
<b>DECISION DUE DATE</b> 22/01/20		<b>PUBLICITY EXPIRY DATE</b> 30/12/19

## 1. DESCRIPTION OF SITE

- 1.1 63 Newton Road is a Victorian mid-terraced house located at the southern end of Newton Road. The site lies within the designated Faversham conservation area and within the built up area of Faversham. It is also subject to an Article 4(2) Direction dated May 2007 which was issued in order to prevent piecemeal degradation of the streetscape of the town via incremental Permitted Development changes and, ideally, to raise the standard of appearance of properties from the public domain when changes are being made. This Direction does not restrict replacement windows etc on the private rear elevations of properties.
- 1.2 Newton Road is a typical Victorian residential street featuring traditionally designed dwellings. The application property is part of two short terraces of properties which have bay windows on the ground floor and are set close to the pavement. Each of the properties has an original two storey outriggers to the rear garden area which create open areas between the two storey wings and the boundary lines.
- 1.3 The application property has previously been extended with a single storey extension to the end of the original rear wing, and it has uPVC replacement windows both front and back which pre-date the 2007 Direction. The neighbouring properties are similar in plan form and many have single storey extensions at the far ends of their original rear wings.

## 2. PROPOSAL

- 2.1 This application seeks permission to construct a single storey rear extension to the side of the two storey rear projecting section of the property which will run along the common boundary with no.65 Newton Road.
- 2.2 The extension will project 3.0 metres from the recessed rear elevation of the building, with a flat roof (with a rooflight behind the parapet) to a maximum height of 3.1 metres. The structure would be faced with yellow brickwork to the side elevation (along the common boundary) and the rear elevation would be white-rendered, both to match materials already found at the rear of this property. There would be a single UPVC window to the rear, and the extension is designed to provide additional space in the kitchen.

## 3. PLANNING CONSTRAINTS

Article 4 Faversham Conservation Area  
Conservation Area Faversham

#### **4. POLICY AND CONSIDERATIONS**

- 4.1 Bearing Fruits 2031: The Swale Borough Local Plan 2017: Policies DM14, DM16 and DM33 Supplementary Planning Guidance (SPG): “Designing and Extension – A Guide for Householders” and “Conservation Areas”. The SPG explains that a maximum projection of 3.0m will normally be allowed for single storey rear extension close to a neighbour’s common boundary.

#### **5. LOCAL REPRESENTATIONS**

- 5.1 No representations have been received. However, the closing date for representations is 30 December 2019 and Members will be updated at the meeting.

#### **6. CONSULTATIONS**

- 6.1 Faversham Town Council’s comments have not yet been received. Members will be updated at the meeting.

#### **7. BACKGROUND PAPERS AND PLANS**

- 7.1 Application papers and drawings referring to application reference 19/505850/FULL.

#### **8. APPRAISAL**

- 8.1 The main issues to be considered in this application are the impact of the proposed extension on the character and appearance of the building, the impact on the character and appearance of the conservation area and the impact on the residential amenity of neighbouring properties.
- 8.2 The proposed extension located to the rear of the property would only be visible from neighbouring gardens. This area to the rear is hidden from street view and in my opinion would not have a detrimental impact upon the character of the street scene and visual amenities of the area.
- 8.3 As this extension is at the rear where the Article 4(2) Direction has no effect, the key consideration in this case is whether the proposal meets the aims and objectives of DM33 of Bearing Fruits 2031: SBLP 2017 in preventing development that fails to preserve or enhance the special character and appearance of the conservation area. In my view the proposed infill extension would be a sufficiently modest addition to the host property and would not be visible from public viewpoints. I also consider that it would preserve the character and appearance of the conservation area.
- 8.4 The single storey extension will project 3.0 metres beyond the original rear wall which accords with advice in the Council’s SPG. The extension would have a solid wall facing the side boundary ensuring no loss of privacy to the immediate neighbour. In fact, it will remove the mutual loss of privacy inherent in the existing situation where both properties have side facing kitchen windows facing each other. Overlooking will not be an issue either.
- 8.5 I therefore conclude that the extension would not be detrimental to the residential amenities of the adjoining property at no. 65. I am also of the view that there is no identifiable harm upon the amenity of the residents of the adjoining dwelling at no. 61, situated to the north of the site.

## 9. CONCLUSION

- 9.1 I consider that the proposed extension is acceptable in terms of its impact upon the building, the conservation area and on the residential amenity of neighbours. I therefore recommend that planning permission is granted.

## 10. RECOMMENDATION

GRANT Subject to the following conditions:

### CONDITIONS

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

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

- (2) The development hereby approved shall be carried out in accordance with the following approved drawings:

NR1729.01; NR1729.04; NR1729.05; NR1729.06 and NR1729.07

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

- (3) The facing bricks to be used in the construction of the extension hereby permitted shall match that on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity

### The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.





**PLANNING COMMITTEE – 9 JANUARY 2020****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 19/504625/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing garage and erection of replacement garage building (as approved under 17/501081/FULL but with minor amendments) and associated car parking. First floor to be used as holiday accommodation. (Resubmission of 19/503604/FULL)		
<b>ADDRESS</b> Elm Tree Cottage Butlers Hill Dargate Faversham Kent ME13 9HG		
<b>RECOMMENDATION</b> - Refuse		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council Support		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Hernhill	<b>APPLICANT</b> Mr & Mrs Marsh <b>AGENT</b> Peter S. Ferguson-McCardle
<b>DECISION DUE DATE</b> 07/11/19		<b>PUBLICITY EXPIRY DATE</b> 17/10/19

**Planning History**

19/503604/FULL

Demolition of existing garage/store building and erection of new garage/gym and laundry room with holiday letting accommodation above and creation of 2 parking spaces within existing paddock

Withdrawn by applicant due to officer's concerns regarding proposed height and footprint of proposed new building 19.08.2019

17/501081/FULL

Demolition of existing garage/store and erection of replacement.

Approved Decision Date: 03.05.2017

15/501697/FULL

Demolition of rear lobby and dormer window and proposed two storey rear extension plus internal rearrangements

Approved Decision Date: 07.05.2015

15/501698/LBC

Listed Building Consent for demolition of rear lobby and dormer window and proposed two storey rear extension plus internal rearrangements

Approved Decision Date: 07.05.2015

SW/10/1194

Erection of small barn and equipment store.

Approved Decision Date: 12.11.2010

SW/09/0415

Listed Building Consent for conversion of former cart lodge to residential annexe.

Approved Decision Date: 10.08.2009

SW/09/0414

Planning permission for conversion of former cart lodge to residential annexe.

Approved Decision Date: 10.08.2009

## 1. DESCRIPTION OF SITE

- 1.1 The property is the Grade II listed Elm Tree Cottage situated on the eastern side of Butlers Hill within the Dargate conservation area and within the Blean Woods Area of High Landscape Value. To the rear of the cottage is a small gently sloping field. The property includes the main cottage, a former cart lodge immediately to the rear (now converted to an annexe), and a double garage beyond.
- 1.2 The curtilage listed former cart lodge received planning permission and listed building consent in 2009 for its restoration and conversion to a residential annexe. This work has been completed and the applicants are using this building as a holiday let, although they have not sought planning permission for that use.
- 1.3 The garage building is a newer building, and it was the subject of an application in 2017 (17/501081/FULL) which approved its replacement by a new garage with storage in the roofspace, but only after the building was reduced in size and height. The application was amended to ensure it did not compete visually with the adjacent listed building. That permission has not been implemented, and the current application is essentially for an alternative form of development.
- 1.4 The Dargate Conservation Area Appraisal describes the area as;

*The road to Butlers Hill leading south from the hamlet has a similarly loose scatter of frontage development, again interspersed with orchards and fields. Elm Tree Cottage occupies a crucial position on the turn in the road; it is an attractive white painted weatherboarded house built in the early 1800s, and is also characteristically Kentish in appearance. The building has remained reasonably unaltered, and the setting is uncluttered in appearance. Immediately to the south west lies Bushey Whilds, an early 17th century red brick house with a clay tiled roof, although now with a modern extension at the rear.*

## 2. PROPOSAL

- 2.1 The current application proposes replacing the existing double garage with a larger double garage that incorporates a utility room at ground floor. Within the roofspace a living room/kitchen, bedroom/dining room and an en-suite bathroom are proposed, all lit by four rooflights and two gable-end windows, and accessed by an external staircase. The application seeks to increase the approved height of the structure by around 0.25m to enable the roofspace accommodation to be used as self-contained holiday accommodation. The ground floor car parking and a utility room spaces would be separately accessible.

- 2.2 The proposed facing materials include handmade clay plain roof tiles, black stained timber weatherboarding, black stained timber stairs and doors, black conservation rooflights, and a red brick plinth.
- 2.3 The application is supported by a brief Heritage Statement and Design & Access Statement which argues that as the proposed building is principally the same as that previously approved, and it is located behind the former cart shed *“the proposal will have little or no effect on the setting of the listed building but will permit the secure storage of vehicles whilst providing a valuable tourism asset”*.
- 2.4 The building has the same footprint as the replacement garage approved in 2017 but it would be taller than that approved scheme, and almost as tall as the former cart lodge which sits between it and the main listed building.
- 2.5 The applicants have compared the proposal to a recent decision to grant planning permission within the same parish for the redevelopment of two small barns to create a new holiday let.

### **3. PLANNING CONSTRAINTS**

Conservation Area Dargate

Grade II Listed Elm Tree Cottage

### **4. POLICY AND CONSIDERATIONS**

- 4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies CP4, ST3, DM3, DM14, DM32 and DM33.
- 4.2 Supplementary Planning Guidance (SPG): ‘Conservation Areas’
- 4.3 National Planning Policy Framework (NPPF)

### **5. LOCAL REPRESENTATIONS**

- 5.1 Four letters of objection have been received from local residents and the comments therein can be summarised as follows:
- Previous permission 17/501081/FULL is being invoked as supporting evidence for this new build. However, that permission has a condition restricting its use as ancillary.
  - As the current application is for use as a separate unit of accommodation this would be contrary to the provisions of the development plan. Policies DM11, DM16 and DM33 have not changed in the interim
  - The application is essentially for a new house and it would extend residential development in depth back from the highway
  - It would be approximately the same size as a detached house, and the same size as Elm Tree Cottage, which itself has already been extended – the extent of “development creep” at Elm Tree Cottage is astonishing
  - The claim that the proposal will have little impact on the listed building is patently wrong – it is now extended and has been subject to significant recent development – it should be protected by all the policies in place

- The purpose and scale of the proposed building is inappropriate for the designated setting and location
- The Dargate conservation area was won on the basis of the hamlet's loosely scattered dwellings – it is vulnerable due to its open character and space
- The proposed new build is inappropriate for a sensitive site at the heart of the conservation area
- The development will be visible from the bridle path and footpath and would block views of the woods within what is classed as the Blean Woods Area of High Landscape Value
- If designations within the development plan are to have any meaning then applications like these should surely be refused
- With the cottage extension, the garage and the cart shed the developed volume has tripled
- There is no need for another holiday let here as there are already at least three holiday lets within a few hundred yards of the site
- The adjoining former cart shed itself is now being used as a holiday let in violation of planning conditions – what is the point of such conditions if they are ignored?
- The stabling and sand school are all being used commercially
- An application to erect a bungalow to the rear of this site at Acorns was dismissed at appeal and that decision sets a precedent for refusal here
- The area has clay soils so soakaway drainage would exacerbate run-off problems

5.2 The applicants have responded to these points at length saying (in summary):

- Replacement of the existing garage has already been approved and if this application is refused it could still be re-built.
- This application has the same size footprint as the approved new garage and replaces an existing building
- The building is not as large as Elm Tree Cottage and is not intended as a house, some objections are exaggerated
- The new building will look better in views from public rights of way, but will look no different to neighbours, and it will not block views of the woods
- We have no use for the approved roofspace storage so propose a studio holiday flat, which would help make the re-build financially viable
- There is clear demand for such holiday accommodation in Dargate, and this helps local businesses, which the Council has supported locally
- The previous planning condition is irrelevant as this is a new planning application
- There should be loss of privacy to neighbours
- There will be no local traffic, drainage or light pollution impact

5.3 Twelve letters of support were received from across the parish and can be summarised as follows:

- The proposed garage would be a visual improvement on the existing, which is in poor repair
- There is already permission to rebuild the existing garage on the same footprint as the original plans, this application is not new but simply making amendments to make it more useful
- The applicants work hard in maintaining high standards and encourage visitors to see local sites and support the local economy
- Small scale business ventures such as this should be encouraged
- The application will support the Council's commitment to a 5 year visitors' economy framework
- The proposed holiday let will support The Dove PH which is a short walk and the pub struggles to attract people from further afield
- The applicants are strong, active members of the community
- There is no parking issues on the site and parking is discretely located down a private track
- The external stair is discretely positioned
- The change of use for the upstairs area reflects the fact that the ownership has changed since the previous application was granted and the applicants don't require an office or store
- Requirements change over time with different owners, demonstrated most often by the extension of properties in the area, but this provides progression in Dargate
- There will be no congestion, drainage or traffic problems
- The building would have no impact on neighbouring properties

## **6. CONSULTATIONS**

- 6.1 The Parish Council supports the proposal, but no reason is given for this support.
- 6.2 Historic England has no comment to make.
- 6.3 Natural England raises no objection subject to a SAMMS mitigation payment in respect of The Swale SPA.
- 6.4 Kent Highways and Transportation state that the proposal does not warrant involvement from the Highway Authority.
- 6.5 The Council's Economy and Community Services Manager supports the application, and states that the site is located in a geographical location which is recognised as being well placed to offer visitors memorable experiences. Dargate has an attractive landscape and is an area that offers local distinctness, being close to the coast and to heritage attractions it is set within the food triangle of Faversham, Whitstable and Canterbury. The flexibility of a self catering unit will provide visitors an opportunity to enjoy the area contributing to economic growth.

## **7. BACKGROUND PAPERS AND PLANS**

- 7.1 All plans and documentation relating to 19/503604/FULL

## **8. APPRAISAL**

- 8.1 This proposal will sit close to Elm Tree Cottage which is a grade II listed building set within the Dargate conservation area, and located in the open countryside outside of any defined built up area boundary and therefore subject to countryside restraint policies in the adopted Local Plan and NPPF. The main relevant policy is ST3 of the Local Plan, which states that at locations in the open countryside outside the built up area boundaries, development will not be permitted unless supported by national policy where it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.
- 8.2 Policy DM3 supports the rural economy by encouraging economic development and especially by prioritising the re-use of rural buildings over new builds. The Council has long been supportive of holiday use in vacant rural buildings and there are many such opportunities remaining to exploit. Not all approvals have in fact been implemented.
- 8.3 However, applications for new build holiday lets in the countryside, as in this case, raise similar issues as a proposal for a new dwelling albeit with some economic benefits; hence the preference for the conversion of existing vacant buildings. It should be noted that the existing former cart lodge at Elm Tree Cottage has an approved use as an annexe ancillary to the host dwelling, but this is being used as a self contained holiday let without the benefit of planning permission. It is existing buildings such as this cart lodge that the Council has preferred to see being used as holiday lets rather than purpose built new builds. Such new build development, especially if repeated, would lead to the creation of an unlimited number of new dwellings in remote unsustainable locations to serve a market that is capable of being met from existing rural assets which is, in itself, a more sustainable approach.
- 8.4 The recent decision referred to by the applicants (see paragraph 2.5 above) relates to a scheme where the two barns existed and the approval recognised the benefit of a new use for the buildings, and where their rebuilding was an alternative to their acceptable re-use, but with a better appearance. This is not the same as the current case as that related to two vacant buildings with no practical alternative use, and the holiday let scheme was felt likely to represent an enhancement of the conservation area. In the current case the existing garage is an ordinary domestic outbuilding that has an ongoing function, and which would be replaced with a larger, taller building that will not enhance the character of the conservation area.
- 8.5 The remote rural location of this site is some distance from local services and public transport. Any journeys for services such as shopping etc. would need to be to Faversham or further and would need to be made by private car. As such, I consider the site to be unsustainable, and the National Planning Policy Framework (NPPF) in paragraph 11 states that new development should be sustainable. The NPPF at paragraph 79 does not exempt holiday homes from its restraint on isolated dwellings in the countryside.
- 8.6 The benefits which the proposed holiday let might bring to the rural economy would be fairly limited as there are very few local services within the immediate vicinity of the site and holiday lets arising from conversion would have the same benefits. Any limited benefit to the community does not significantly and demonstrably outweigh the harm when assessed against policies of the Local Plan and the Government guidance within the NPPF.

- 8.7 In terms of the design of the proposed building, its increase in height compared to the approved replacement garage would detract from its appearance and its suitability in this sensitive setting. When application 17/501081/FULL was approved it had been amended to reduce its height and make sure it was subservient to the nearby listed building. The current design is compromised with an exaggerated eaves height in order to fit in the holiday accommodation, and to my mind it appears top heavy and awkward in proportion. The proposed building is now taller and of an appearance which is likely to harm the setting to the listed building and be intrusive within the conservation area.
- 8.8 Paragraph 196 of the NPPF requires Local Planning Authorities to weigh up the public benefit of proposals that result in less than substantial harm to heritage assets, but here the public benefits are very limited and, to my mind, they do not outweigh the harm that the development would result in.
- 8.9 Given the fact there are no nearby neighbouring properties that would be affected by the proposal, it is not considered that residential amenity would be an issue in this case.

## **9. CONCLUSION**

- 9.1 The proposal is contrary to local and national policy as it would result in a new residential unit, albeit with a restricted occupancy condition, within the designated countryside. The harm that this would cause to the countryside is not significantly outweighed by the limited benefits to the local economy when assessed against policies of the local plan and NPPF. In addition the proposed design will be taller than the approved garage to enable the creation of the holiday accommodation, which means that its appearance is compromised in a way which means that it will create an intrusive and awkward looking building harmful to the setting of the listed building and to the special character of the conservation area.

### **Appropriate Assessment for the Purposes of The Conservation of Habitats and Species Regulations 2017**

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 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.

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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.

The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

No mechanism to secure the SAMMS tariff has been finalised with regard to this application, but in the light of the recommendation, it is not a matter that need delay this decision at this stage.

**10. RECOMMENDATION** – Refuse for the following reasons:

- (1) The proposal represents unnecessary, undesirable and unsustainable residential development in this remote countryside location. The harm to countryside interest that might result from this proposal is not outweighed by the limited contribution made to the rural economy when assessed against the policies of the Local Plan and NPPF. The proposal would therefore fail to comply with policies ST3, DM14 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017 and paragraph 79 of the NPPF.



- (2) The proposed development would, by virtue of the additional height of the building and its awkward proportions, fail to protect the setting of Elm Tree Cottage, and would not preserve or enhance the character and appearance of Dargate conservation area. As such the proposal is contrary to policies CP4, DM14, DM32 and DM33 of Bearing Fruits 2031: The Swale Borough Local Plan 2017.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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.



<b>3.2 REFERENCE NO - 17/505019/FULL</b>		
<b>APPLICATION PROPOSAL</b>		
Retrospective application for Change of use of land to a mixed use site, to continue the equestrian use and add residential use for three Romani Gypsy families. Site to contain three static caravans, three touring caravans, parking for 6 vehicles with associated development		
<b>ADDRESS</b> Ridgedale Riding School Halstow Lane Upchurch Sittingbourne Kent ME9 7AB		
<b>RECOMMENDATION</b> Refuse		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
In light of the Council's current 5 year supply position the proposal is considered to be unacceptable by virtue of the established harm to the countryside that this proposal causes. This harm would not be outweighed by any personal circumstances of the applicant.		
In addition, the development gives rise to the need for SAMMS payments, which have not been received.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>		
Called in by Ward Cllr Alan Horton		
<b>WARD</b> Hartlip, Newington And Upchurch	<b>PARISH/TOWN COUNCIL</b> Upchurch	<b>APPLICANT</b> Mr & Mrs Ball <b>AGENT</b> BFSGC
<b>DECISION DUE DATE</b> 29/11/17	<b>PUBLICITY EXPIRY DATE</b> 14/11/17	

**Planning History**

15/508116/FULL: Removal of condition (7a) imposed under appeal Ref: 2169572 to allow permanent occupation of 3 mobile homes for gypsy family. Refused: 27.11.2015

SW/11/1027: Removal of condition (7) of planning permission SW/08/0710 to allow permanent occupation of 3 mobile homes for gypsy family. An appeal (ref. 2169572) against non-determination was submitted by the applicant, and the planning committee agreed that a further temporary permission would have been granted if the application had been determined. The appeal was allowed in as much as a further temporary PP was granted for 5 years.

SW/08/0710: Change of use to residential . Stationing of 3 mobile homes for a gypsy family. Temporary planning permission for a period of 3 years was granted on 23.04.2009.

SW/07/1319: Stationing of 3 mobile homes for a gypsy family. Change of use to residential. Erection of a utility room. Refused 07.01.2008

## **1. DESCRIPTION OF SITE**

- 1.1 Ridgedale Stables is a currently unauthorised gypsy / traveller site situated on Halstow Lane, to the west of Lower Halstow and to the east of Upchurch. The site lies opposite Lower Halstow Cricket Club.
- 1.2 The site comprises three static caravans, each placed on elevated plinths due to the flood zone within which the site is located. This means that the caravans are elevated approximately 1.85m above ground level and as a result the finished floor levels of the static caravans are a minimum of 6.85m AOD. Aside from this the site includes three touring caravans and space for the parking of 6 vehicles.
- 1.3 The site is heavily screened along the southern boundary and much of the western boundary by planting.
- 1.4 Two public footpaths cross the site: ZR32 diagonally crosses the site in a broadly north / south orientation whilst ZR35 runs approximately east / west through the site.
- 1.5 The site also includes stables and associated equestrian related features. These are shown on the site location plan within land edged blue, i.e. other land also owned by the applicant. However, this use of the site is established and does not require any further consent from the Council in its own right.

## **2. PROPOSAL**

- 2.1 This application seeks planning permission to allow the permanent residential use of the existing caravans on the site by a gypsy family. The site has in the past benefitted from temporary planning for occupation by a gypsy family, however, this permission expired on 6<sup>th</sup> August 2017.
- 2.2 Due to the retrospective nature of the application the gypsy family are currently occupying the site. The site layout, which is described in more detail in paragraphs 1.1 to 1.5 above is unaltered in relation to the current proposal being considered.

## **3. PLANNING CONSTRAINTS**

- 3.1 Environment Agency Flood Zone 2.
- 3.2 Environment Agency Flood Zone 3.

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The national policy position in relation to gypsy and traveller applications comprises the National Planning Policy Framework 2019 (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS). 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.

- 4.2 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

*Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

- 4.3 In relation to rural housing the NPPF (at paragraph 78) states;

*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*

- 4.4 Paragraph 79 continues:

*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*

*b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*

*c) the development would re-use redundant or disused buildings and enhance its immediate setting;*

*d) the development would involve the subdivision of an existing residential dwelling; or*

*e) the design is of exceptional quality, in that it:*

- *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

- 4.5 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

#### **Planning Policy for Traveller Sites (PPTS)**

- 4.6 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims 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)*

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

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

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

4.8 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)*

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

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

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

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

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

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

*“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest;*



*Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS). I note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS.*

- 4.10 Finally, the definition of gypsies and travellers was 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 such.”*

- 4.11 The Council responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation, adopting a GTAA and carrying out additional work on the (then emerging) Local Plan.

### **Swale Landscape Character and Biodiversity Appraisal SPD 2011**

- 4.12 The site and surrounding area are identified within the Swale Landscape and Biodiversity Appraisal Supplementary Planning Document (SPD) as falling within the Upchurch and Lower Halstow Fruit Belt, where the document advises that the condition of the area is moderate with a moderate sensitivity. The guidelines in this area are aimed at conserving existing landscapes and restoring elements to develop the existing structure.

### **Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- 4.13 The Local Plan was adopted in 2017 following a formal review and adoption process. The key adopted policy to deal with windfall planning applications for new sites is DM10 (Gypsy and Traveller sites), which states:

#### ***Part A: Retention of sites for Gypsies and Travellers***

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

#### ***Part B: Gypsy and Traveller sites***

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

1. *Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:*
  - a. *there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is*

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

4.14 Other relevant adopted Local Plan policies 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. Here, new development will not be permitted unless it has an intrinsic reason for being there and it will protect and/or enhance the countryside.
- **DM23** (Coastal Change Management Areas). This policy sets out that permission will be granted for development proposals subject to it being demonstrated that there

is not an increased risk to life nor property and that the proposal comprises essential infrastructure; or an agricultural building; or water compatible development.

- **DM24** (Conserving and enhancing valued landscapes). This policy seeks to protect and enhance non-designated landscapes.
- **DM26** (Rural lanes). This aim of this policy is to conserve the character of rural lanes which includes Halstow Lane (off which Ridgedale Stables is accessed).

### Five year supply position

- 4.15 The Council undertook a new GTAA following adoption of the Local Plan, and this was completed in November 2018. The assessment covers the period 2017/18 to 2037/38, and identifies a PPTS definition-compliant need of 30 pitches in the short-term 5 year period, and a further 29 pitches to 2037/38. With reference to the cultural need also set out within the assessment, and since the revised definition of who is considered a traveller, it has been commonplace within GTAA methodology to calculate a cultural need (i.e. for all those who identify as gypsies and travellers) and then extract a PPTS need (i.e. for those who meet the revised definition) from it. Footnote 25 of the NPPF clearly sets out that the need to provide for travellers (as set out in paragraph 61) is for the definition as set out within the PPTS. As such, within the context of planning for pitches, the cultural need does not add to the Council's need.

- 4.16 Based on the GTAA, and taking into account the Council's current supply position, the following can be said:

current 5 year pitch need = 13.75;  
 current annual pitch need = 2.75;  
 current supply of pitches = 16;  
 current 5 year supply = 5.8 year supply.

- 4.17 The Council can therefore **currently** demonstrate a 5 year supply of deliverable sites.

## 5. LOCAL REPRESENTATIONS

- 5.1 I have received 51 template letters of support for the application, signed individually by 51 separate people / businesses. The letter states the following:

*"I would like to express my support for the planning application submitted by Mr & Mrs Ball.*

*There is a shortage of Gypsy Traveller sites Swale [sic] and in the UK as a whole, and this type of private provision is a good way forward and much needed.*

*I request Swale Borough Council to look favourably on this planning application and grant planning permission."*

- 5.2 I have received a further comment which neither objects to nor supports the application but makes the following points:

- If a previous application on the site for a dwelling had been approved then this site would have a very different character;
- The amount of caravans / mobile homes in the surrounding area has undoubtedly had an impact upon the landscape and character of the village;
- Does not wish to see the family evicted from this site and a new strategy to re-balance the community should be produced;
- *“perhaps opposing every single housing application over the last 30 years around the village didn't necessarily protect the village from development after all - it just gave us the wrong sort’.*

5.3 I have also received a letter from the Local Footpath Officer for the Ramblers which states: *“The map provided with the application does not show the two footpaths, ZR 32 & ZR35, both of which run through the property. ZR32 runs across the established sand school and across the grass in front of the caravans. ZR 32 is often used by walkers. Both footpaths are on the current definitive map for the parish of Upchurch.”*

## 6. CONSULTATIONS

6.1 **Upchurch Parish Council** *“continues to object to this application on the same grounds it did on the 27th October 2015.*

*The application still impacts on the appearance and amenity of the country side as it did when it was refused in 2015.*

*In particular that the site exceeds the current temporary permission and we believe there have been enforcement notices served.*

*The site has had previous applications for a permanent dwellings turned down.*

*None of the issues concerning flooding have been addressed since the decision made in 2012.*

*The development is likely to make the public footpaths through the development unusable in the future.*

*There are environmental issues both with sewage and mains drainage for this site that have not been addressed.*

*There is no requirement or need for Upchurch to increase its already high number of travellers sites as Swale is ahead of meeting its quota to 2031 and it is felt this site will not be fully sustainable.”*

I have received a further objection from **Upchurch Parish Council** which repeats a number of the above points and also states:

*“- The landscaping is not of a permanent nature and could be cut down, the laurel actually draws attention to the development.*

*- The landscaping is unattractive.*

*- Halstow Lane continues to be urbanised due to the number of Gypsy and Traveller sites and barn conversions which have been permitted.*

*- This proposal would further erode the gap between the two different villages of Upchurch and Lower Halstow.*

*- The rural landscape is disappearing and the proposal further worsens the Assessment of the Landscape Character”*

**6.2 Lower Halstow Parish Council** *“object to the above application for the following reasons:*

*- The proposed development is outside of the built up boundary;*

*- The applicants have previously been refused and are now applying for retrospective permission in defiance of the planning regulations;*

*- The line of sight on exiting is inadequate;*

*- The site is unsuitable for permanent residential use by virtue of the impact of such development upon the character, appearance and amenity of the countryside;*

*- The site is at risk of tidal and fluvial flooding.”*

**Lower Halstow Parish Council** have sent a second letter which states that their objection to this application and the reasons for doing so (as set out above) remain valid.

**6.3 Environment Agency** raises no objection to the application but note that the site lies within the 1 in 200 year plus climate change events, but suitable mitigation has been provided through raising of the finished floor levels. This will take the finished floor levels outside of the 1 in 200 year plus climate change flood level. It is also noted that no details in respect of foul drainage have been supplied.

**6.4 Environmental Protection Team Leader** raises no objection.

**6.5 KCC Public Rights of Way (PROW) Officer** initially objected on the basis that the application had not referred to the PROW that cross the site. Following this, details of the PROW were provided and the PROW Officer subsequently removed the objection.

**6.6 KCC Highways & Transportation** state that the proposal does not meet the criteria to warrant the involvement from the Highway Authority.

**6.7 Swale Footpaths Group** set out that *“two public footpaths (ZR 32 and ZR35) cross the site. Neither is shown on the location plan or the block plan. Neither should be obstructed. Please draw the legal position to the applicant's notice.”*

**7. BACKGROUND PAPERS AND PLANS**

**7.1** The application is supported by a Design and Access (D&A) Statement, an Education and Health Appendix and a Flood Risk Assessment.

- 7.2 The D&A Statement describes the layout of the site and sets out that it is not out of scale with the nearest settled community. The impact on the landscape is discussed and the D&A Statement comments that *“The site is small scale and reasonably well screened from roadside views. Views of the site would not be prominent or obtrusive in the wider landscape, views are limited and mostly with the back drop of the existing development. As there is also land available on site with potential for additional landscaping if needed the proposed development would not cause unacceptable harm to the character or appearance of this part of the countryside.”*
- 7.3 The D&A Statement goes onto say that *“The view points into the site are mainly short range, and the proposed static caravans would be well below the skyline adjacent to the existing established hedgerows and trees. It is often said that caravans don’t blend into the landscape, however I would say that due to their scale, and the fact that caravans are very much a part of the countryside, and an established type of accommodation found to be acceptable in connection with agriculture, also touring caravans ancillary to stables are seen as acceptable in the open countryside, and caravans on farms are not unusual, so it has to be said that caravans of themselves are not an alien feature in the countryside.”*
- 7.4 The D&A Statement also points out that *“It is important that this family has a stable place to live, and they have been living on site for many years without an available alternative site.”* In addition it is stated that *“It is important that the family has a stable place to live so they can access healthcare and education.”*
- 7.5 Further information in the form of a Health and Education Statement has been provided which sets out the medical conditions that affect various members of the family and the education status of the children that are living on the site.

## **8. APPRAISAL**

- 8.1 The applicant’s submissions are supported by a statement in respect of the gypsy status of the applicant. Officers are satisfied that the applicant is a gypsy meeting the PPTS definition. I have no evidence before me or reason to challenge the applicant’s status.
- 8.2 At the outset I consider it vital to provide Members with additional information in respect of what I believe to be the extremely relevant planning history of this site as listed at the beginning of this report.
- 8.3 A planning application was firstly submitted under ref SW/07/1319 for the stationing of 3 residential mobile homes for a gypsy family and the erection of a utility room in the northern part of the site. This application was refused due to flood risk as the position of the proposed caravans and utility block was within the flood zone.
- 8.4 Subsequently, an application was submitted under ref SW/08/0710 for the stationing of the caravans towards the southern end of the site on raised plinths to take them above the flood risk level, this is the position in which they remain to this day. Although visual harm was identified, due to the unmet need for gypsy pitches in the

Borough at this time, on balance it was determined that temporary permission for a period of 3 years should be granted, this was controlled by condition 7.

- 8.5 Further to the above applications, SW/11/1027 sought to remove condition 7 at the end of that three year period, and to make the permission permanent. An appeal for non-determination was submitted against the Council in respect of the application, however officers still put a report to planning committee recommending that (if an appeal had not been submitted), a further temporary permission be granted. In terms of the visual impact, the committee report noted:

*"The site is undoubtedly exposed - the caravans are located to the front of the site, and have been raised above the level of the land in order to mitigate against the site being in an area at risk of flooding. This has given them, in my opinion, undue prominence in the streetscene and the surrounding area. In my opinion the caravans are prominent, obtrusive and harmful to the character and appearance of the area. Whilst relocating the caravans further into the site, and further from the road, would mitigate against their harmful visual impact, this would not be possible, as the risk of flooding increases the closer to the estuary one goes.*

*The area least at risk of flooding is that where the caravans are currently located. Landscaping could mitigate this harm to a degree, but not to such a degree that permanent planning permission should, in my view, be granted. Any such landscaping would draw the eye to the site, in what is, a very open, albeit fragmented, landscape. This would in my view serve only to emphasise the harm caused by the development.*

*This site is not in my view suitable for a permanent planning permission. It is located in an area at risk of flooding, and as a consequence, the caravans on it are raised above the ground and located in the most prominent and visually harmful position on the site. However - as the recent appeal decision at Tootsie Farm sets out very clearly, there is still an unmet need for gypsy/traveller pitches within Swale, and this remains an important material consideration when applications are being determined. As the Council is still not meeting requirements in terms of addressing need, providing an allocations DPD, or a rolling five year supply of deliverable sites, and as the adoption of the Core Strategy remains some years away, I conclude, as the Inspector did on the Tootsie Farm appeal, that this outweighs the harm caused by the site to such a degree that temporary planning permission should be granted.*

*As such I recommend that Members resolve that, had an appeal against non-determination not been submitted planning permission would have been granted for a further temporary period of 4 years. "*

- 8.6 The subsequent appeal was allowed by the Inspector and temporary permission for a period of 5 years was granted. The Inspector also dealt with the issue of the visual impact of this proposal and stated the following:

*Paragraph 16: "the mobile homes are seen clearly and prominently, due to their proximity to the road. Their visual impact is further exacerbated by the raised plinths,*

*and by the unsympathetic, spread-out layout, which maximises visibility...Consequently, I find that the development appears as an intrusive and incongruous feature, at odds with the surrounding landscape."*

Paragraph 22 goes on to state that *"the continued use of the appeal site as now proposed would cause substantial damage to the character and appearance of the countryside, including harm to the area's landscape, amenity value, environmental quality and openness...this harm could not be overcome by means of planting or other screening..."*

- 8.7 Although the Inspector considered that the unmet need at that time outweighed the harm identified, the Inspector also resisted the opportunity to grant a permanent permission and Members will note the Inspector's support of the Council's concerns in respect of visual amenity.
- 8.8 Further to the above, an application was submitted under 15/508116/FULL to allow for the permanent occupation of 3 mobile homes for a gypsy family. As part of that proposal it was considered that the Council had taken necessary steps in addressing unmet need for gypsy pitches. Therefore, the only remaining consideration centred on the impact of the development upon the character, appearance and amenity of the countryside. However, as referred to above, this point had been fully considered in previous decisions by the Council and the Planning Inspectorate. The conclusion had been reached that the positioning of the caravans and its subsequent impact was unacceptable. As a result of this the application was refused.
- 8.9 The above leads us to the current position where the temporary permission that the occupants of the site previously benefitted from has now expired. Therefore an application, essentially identical to the proposal submitted under 15/508116/FULL has been submitted again for consideration. The applicants were offered the opportunity to amend the scheme, and an alternative position on the site was discussed with officers but after a lengthy period of consideration the applicants decided not to amend the application and to retain the caravans in their current position.
- 8.10 Due to the location of the caravans remaining identical, including their elevated position due to the flood risks associated with the site, I see no reason to come to a different conclusion in respect of the harmful impact upon the countryside. I do note the agent's comments in the Design and Access Statement regarding the planting that exists, and the possibility that more could be provided. In addition to this, I note that the planting upon the site does screen views of the caravans from Halstow Lane to a very large degree. However, I give very significant weight to the Inspector's comments as referred to in paragraph 8.6 above. As such, the planting in this location would not overcome the harm that is caused. In addition to this, policy DM10 of the Local Plan sets out that gypsy sites will *"Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community."* In my view, the prominence of the planting in the wider landscape and its configuration on the site conflicts directly with this specific aim of the Local Plan policy.



- 8.11 On the basis of the above considerations, the matter of key importance that is required to be addressed is whether the Council can demonstrate a 5 year supply of pitches, and if it can't whether the harm identified would outweigh any unmet supply.
- 8.12 As set out in paragraphs 4.15 – 4.17 above, the Council is of the view that it can demonstrate a 5.8 year supply of pitches. Therefore, I believe that the considerable harm that this proposal causes to the character and appearance of the countryside should be given significant weight.
- 8.13 The application is supported by an education and health status report which sets out there are three school age children living on the site, at least one of which attends a local school. From the information provided, two of the children have medical conditions. In addition to this, two of the adults on the site have on-going medical issues for which medication is required. As such, I understand the benefits of a permanent site in respect of both the access to education and healthcare.
- 8.14 It is quite clear that in taking a decision which may affect children the decision maker should understand and take proper account of the best interest of the children involved. Article 8 of the European Convention of Human Rights requires respect for family and private life, and I am also mindful of the entitlement of gypsies and travellers to their traditional way of life which involves living in caravans.
- 8.15 Refusal of the planning permission here would be an infringement of the appellant's rights under the ECHR. I have taken into account the circumstances of the applicant and their family, especially the fact that there are school age children living on the site who also suffer from medical conditions. However, I give very significant weight to the harmful visual impact that this site gives rise to and the comments of the Inspector as referred to throughout this report.
- 8.16 I consider that the combination of significant factors, including the above mentioned harm to the countryside, and the previously considered views of both the Council and the Inspector that this is not a suitable site for permanent occupation, creates powerful arguments against the need for a settled base to be met on this site. That is not to say that this need cannot or should not be met elsewhere in the Borough (or beyond) where all these factors might not be present.
- 8.17 In concluding on this matter, even taking the best interests of the children and the Human Rights of the applicants and their family into account, an infringement is, in my view, proportionate and necessary in the public interest to avoid permanent harm to the countryside, which is supported by the above local and national policies.
- 8.18 The site also lies within 6km of the Swale SPA and a contribution is therefore required to mitigate the potential impacts of the development upon that protected area, in accordance with the Council's standing agreement with Natural England. (Natural England has not commented in respect of this application, but their approach is clear and consistent across the board with residential development, and I see no reason to delay the application to await their standing advice response.)

- 8.19 Although I note the requirement to request a contribution to mitigate these potential impacts, this has only been required for minor developments (such as this) in the interim period between the application being received and the time of writing this report. Therefore, understandably, a Section 106/UU was not submitted with the application and I don't consider it appropriate to now request one given the in-principle objection above.
- 8.20 I therefore consider it justifiable to include a reason for refusal on the grounds of potential harm to the objectives of the SPA, and in that regard note the PINS decision (ref. 3188809) for Cromas, Callaways Lane, Newington, which states:

*11. The application site is located within around 2.8km of the Medway Estuary and Marshes Special Protection Area and Wetland of International Importance under the Ramsar Convention (hereafter referred to as the "SPA"), which is a European designated site. This is due to the international significance of this area for wintering birds, in particular waders and waterfowl. The evidence before me indicates that there have been marked declines in the number of birds using the SPA, which can be directly linked to those locations with high levels of public access. The proposal is not directly connected with or necessary to the management of the SPA. The Council identifies the potential for bird disturbance within the SPA, arising from the likelihood of increased recreational disturbance (including dog walking) as a consequence of this proposed development.*

*14. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so enable it to be ascertained that the proposal would not adversely affect the integrity of the site. This could potentially include a financial contribution secured through a planning obligation to be used for suitable works or management practices. However, whilst Natural England suggest that mitigation could be secured by an appropriate financial contribution to the Thames, Medway and Swale Strategic Access, Management and Monitoring Strategy, there is no method before me of securing such a contribution. Similarly, whilst the Council may not yet have put in place the full measures to achieve mitigation, that is not in itself a reason to absolve the appellant of the need to provide such mitigation.*

*15. In this case, on the evidence before me, I consider that there is a potential for recreational disturbance to the SPA through additional activity associated with this residential development, which would affect the integrity of this European site. The evidence before me suggests that such activity has the potential to intensify the decline of bird populations within these areas. The lack of any acceptable mitigation means that the proposal would affect the integrity of this European site.*

## 9. CONCLUSION

- 9.1 In respect of reaching a conclusion on this application I refer back to the Inspectors decision and in particular paragraphs 42, 43 and 44 as follows:

42. *“....continued residential use of the appeal site would cause substantial harm to the character and appearance of the countryside, conflicting with the relevant development plan policies. This consideration weighs heavily against extending the existing permission, particularly on a permanent basis. In addition, the site is within a designated area of high flood risk, where vulnerable development should normally be avoided. This reinforces my view that the appeal site is not well suited to residential development. In the light of these considerations, the present use of the site cannot be said to constitute sustainable development.”*

43. *“...it is clear that Mr and Mrs Ball need to be able to provide a settled base for their family, so as to ensure continued access to education and other services, and to provide family stability. The family has no other home to go to, and the Council has not been able to identify any suitable or available alternative sites. At present therefore, the appeal site appears to be their only option. There is also an accepted backlog of unmet need for gypsy and traveller sites, resulting from past under-provision, which reinforces the difficulties of finding and securing any other site. These considerations weigh in favour of extending the existing permission.”*

44. *“However, the latter situation is likely to change when the Council has prepared its proposed new Traveller Sites DPD, which is intended to identify a 5-year supply of sites. At that time, it can reasonably be expected that one or more alternative sites will become available which could meet the appellant’s needs without incurring the environmental harm or flood risks of the present appeal site. Alternatively, that process might lead to the conclusion that, despite its drawbacks, the present appeal site is one of the least objectionable options available. Either way, granting a temporary permission now would allow the position to be reviewed when the outcome of the DPD process is known.”*

- 9.2 The Council’s 5 year supply is now clearer than when the Inspector made the comments above, which need to be considered alongside the continued harm to the countryside that this proposal causes. Therefore, for the reasons as discussed above I consider that the factors that weighed in favour of granting a temporary permission previously no longer apply. As such, I am of the view that the application is unacceptable and should be refused.

**10. RECOMMENDATION - REFUSE for the following reasons:**

- 1) The application site is unsuitable for permanent residential use by gypsies and travellers by virtue of the significant harm that the development causes to the character, appearance and amenity of the countryside. The proposal is therefore contrary to policies ST3, DM10, DM14 and DM24 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; paragraph 26 of Planning Policy for Traveller Sites; and paragraph 170 of the National Planning Policy Framework.
- 2) The proposed development will create potential for recreational disturbance to the Swale Special Protection Area. The application submission does not include an appropriate financial contribution to the Thames, Medway and

Swale Strategic Access Management and Monitoring Strategy (SAMMS), or the means of securing such a contribution, and therefore fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, DM14, and DM28 of the adopted Swale Borough Local Plan 2017; and paragraphs 8, 170, 171, and 175 of the National Planning Policy Framework.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), February 2019 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

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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<b>3.3 REFERENCE NO - 19/504833/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of a pair of semi-detached 2 bed cottages (self-builds) together with associated access and parking.		
<b>ADDRESS</b> Land Adjoining Miles Cottages Butlers Hill Dargate Kent ME13 9HH		
<b>RECOMMENDATION</b> – Refuse subject to further views from Kent Highways and Transportation.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary representation from the Parish Council.		
<b>WARD</b> Boughton And Courtenay	<b>PARISH/TOWN COUNCIL</b> Hernhill	<b>APPLICANT</b> Ms P and Mr R Leak <b>AGENT</b> Rebus Planning Solutions
<b>DECISION DUE DATE</b> 27/12/19		<b>PUBLICITY EXPIRY DATE</b> 09/12/19

## 1. DESCRIPTION OF SITE

- 1.1 The site consists of a small field situated which is at present laid to pasture and screened from the highway by an existing tall deciduous hedge; part of a continuous hedge running eastwards from the site. There is an existing gateway from the road into the field, and to the adjoining field, but the site is otherwise undeveloped.
- 1.2 To the immediate west of the site is a pair of cottages known as Miles Cottages, whilst to the south (across the lane) there are two pairs of cottages set on either side of a small barn. All these properties existed in 1940 according to the application papers. There is an open field to the east of the site and development in the area is sporadic and fairly scattered.
- 1.3 The site is in a Local Plan defined Area of High Landscape Value and it is situated some considerable distance outside any built-up area boundary, where policies of rural restraint apply. The site is also within 6km of The Swale Special Protection Area (SPA), and on a rural lane designated as such under Local Plan policy DM26 which has no pavements or street lighting.

## 2. PROPOSAL

- 2.1 The proposal is to erect a pair of semi-detached two bedroomed cottages, with associated parking and amenity space. The submitted drawings show a traditional rural style finished with Kentish vernacular materials.
- 2.2 The proposed houses would be situated towards the front of the site, with parking and turning areas to the side and front. Fairly large rear gardens would be provided, divided by a 1.2 metre high close boarded fence, and each property would have a shed in the garden for cycle storage. Each house would have one parking space and a large driveway with turning space fronted by low level planting; meaning that the tall hedge across the site frontage will be lost.

- 2.3 The application is accompanied by a comprehensive Planning Statement which explains that the applicants would like to build the houses as a self-build project to accommodate them and their respective partners; if necessary by signing a Section 106 Agreement restricting occupancy for the first three years. The applicants were born in the village, and they contend that the only way for them to live independently from their family but still in the village would be via this project. The statement discusses in detail the applicants' desire for the project to be 'self-build', and notes that the applicants are entered upon the Council's Self-Build Register. It also considers a number of approvals in the Borough and within Canterbury City Council's area which it is claimed support their application, and includes details of where the applicant believes their application is supported by national and local planning policy, with particular regard to the fact that being adjacent to other development the proposed cottages will not be isolated.
- 2.4 The application is also accompanied by an Ecological Scoping Survey, which records that there are no protected species on the site.
- 2.5 The application has been amended by the submission of a drawing indicating parking and cycle storage. This drawing also shows increased vehicle turning areas and sightlines requested by Kent Highways and Transportation, which I describe in more detail below.

### **3. PLANNING CONSTRAINTS & POLICY CONSIDERATIONS**

- 3.1 The Development Plan comprises Bearing Fruits 2031: The Swale Borough Local Plan 2017. Policies ST1 (Delivering sustainable development in Swale), ST3 (The Swale Settlement Strategy), ST7 (The Faversham area and Kent Downs Strategy), CP3 (Delivering a wide choice of high quality homes), CP4 (Requiring good design), DM7 (Vehicle parking), DM9 (Rural exceptions housing), DM14 (General development criteria), DM24 (Conserving and enhancing valued landscapes) and DM26 (Rural lanes) are all relevant here.
- 3.2 Policy ST1 seeks sustainable development which accords with the Plan's settlement strategy. This is set out in policy ST3 (see below) and this is a location where a new build house would not normally be approved unless related to a functional rural need. Policy ST7 relates to the Faversham planning area and protects its historic and natural environment as its primary aims. Policy DM24 seeks to protect valued landscapes and policy DM26 aims to protect the character of certain rural lanes.
- 3.3 The applicants have suggested that the proposal would create housing that is affordable to them, on the basis that they will build it themselves using local labour and contractors, in a location where they would otherwise be unable to afford to buy a house. The Council's policy for rural affordable housing schemes is DM9 which states;

#### ***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 ST 3 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 needs 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 the number and type of houses 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 homes 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.*

3.4 This policy is compatible with NPPF advice (paragraph 77) but in my view the application is not compatible with the policy. The location is poorly related to local services, the scheme is not based on an assessment of local need, and it could in fact detract from the Parish Council's own current proposals to secure a rural exception scheme elsewhere in the parish; a scheme, which is still at draft stage and subject to ongoing local consultation. As such, I would suggest that Members should consider the present application as a purely private development which will not have the sort of lasting community benefits that such a true affordable rural housing scheme ought to provide.

3.5 The site also sits alongside a lane designated in the Local Plan as a rural lane, where policy DM26 seeks to safeguard against development that would either physically, or as a result of traffic levels, significantly harm the character of rural lanes. In this case I believe that the additional dwellings here will detract from the generally undeveloped nature of the lane in question, to its detriment especially due to highway safety requirements and loss of roadside hedging.

3.6 Finally, although the applicants mention the self-build aspect of the proposal as being a positive factor, there is no locally adopted policy support for self-build. The Council has opened a register for expression of interests, but this is meant to influence future policy

rather than ad hoc planning decisions. If the Council were to allocate land for self-build projects that would involve consideration of sustainability and it is unlikely that this location would score well in that regard.

- 3.7 The National Planning Policy Framework 2019 (NPPF): Paragraphs 8, 11, 12, 64 and 77 are especially relevant here.

#### **4. LOCAL REPRESENTATIONS**

- 4.1 Twenty six letters and emails of support have been received from local residents and from addresses as far afield as of Canterbury, Whitstable, Herne Bay, and Wantage in Oxfordshire. The comments contained therein may be summarised as follows:

- This small development will put this unused land to beneficial use; it has little potential for agriculture or anything else
- The land is adjacent to existing cottages and plans for the cottages are in keeping with the existing buildings in the village
- The size of the site means that the new cottages will not have potential for extension as so many local houses have been extended
- The increasing local need for housing has not been met. There is no local affordable housing in the village and this will put local people on the housing ladder
- The applicants (brother and sister) are employed locally and are an asset to the local community. They are the sort of people who should be allowed to stay in the village but they do not meet the criteria for the Council's housing register
- This sort of application is the only way local people can have an affordable home in the village
- Continuation of ribbon development with no impact on the landscape
- Minimal impact on traffic, and off-road parking is provided
- There is a bus service six days a week and all mains services are available
- If large housing estates can be built on agricultural land, why can't a small piece of land be used to provide new homes to maintain the rural environment

- 4.2 Four letters and emails of objection from local residents have been received. The comment contained therein may be summarised as follows:

- The character of Dargate relies on its loosely scattered building pattern. If approved, this could set a precedent for other recently subdivided parcels of land at Dargate and bring a wind-fall to land-owners who support this application, destroying Dargate's appeal
- The site is part of an area designated for its landscape value

- A previous approval is already being quoted in this application as a precedent for local plots owned by a developer, but approval of this application cannot be supported by any recent planning decision
- The site is not previously developed land, but was formerly part of an orchard which has been subdivided by a fence, but shares access to the same field.
- Local examples of self-build planning permissions at Yorkletts are in a continuous built up frontage and are not comparable to this site
- Other plans for local housing and self-build schemes have been claimed but this application should not be seen as acceptable on these grounds. Such schemes are not exempt from adopted Local Plan policies which this application is not compatible with
- This scheme seeks to exploit Swale's assets for personal reasons. There is no merit in the argument that being raised in a village brings an entitlement to build a house
- No public transport after 6:20pm and none on Sundays, nearest shops are over a mile away and any new development will lead to extra traffic on narrow twisting country lanes

## **5. CONSULTATIONS**

- 5.1 Hernhill Parish Council supports the principle of the application of the small self-build project, subject to revised plans as requested by KCC Highways on highway safety. I have not re-consulted the Parish Council on the revised highway drawings, but I do refer to them below.
- 5.2 Natural England raises no objection, subject to the payment of a SAMMS contribution to mitigate adverse effects on The Swale SPA.
- 5.3 Kent Highways and Transportation asked for amended drawings showing sight lines of 2.4m x 202m in each direction from the access (unless a speed survey can show a need for reduced visibility splays), and enhanced details of parking (only space is shown per property), turning, electric vehicle charging points and cycle storage facilities. Amended drawings have been received clarifying parking (one space per property) and showing an enlarged turning area, reducing the amount of soft landscaping to the site frontage. Cycle storage provision is now shown in garden sheds, and the drawing shows 2.4m x 200m sightlines in each direction. I await a response from Kent Highways and Transportation, which I will report to Members at the meeting. However, I am concerned to note that the proposed drawings show the sight lines extend beyond the application site boundary, meaning that they cannot be secured by a planning condition on this application. I also note that they entail removal of approximately 15m of existing roadside hedging beyond the site's eastern boundary (to be replaced by a post and rail fence) to accommodate these sight lines. Finally, the increased turning areas now leave very little room for soft landscaping on the site frontage.

## **6. BACKGROUND PAPERS**

6.1 All plans and documentation relating to 19/504833/FULL.

## 7. APPRAISAL

- 7.1 The key issues to consider in this case are the principle of development on this site, residential and visual amenity, and any other material considerations.

### Principle of development on this site

- 7.2 This site is situated some distance outside any established built-up area boundary in a location with poor accessibility to local services, so rural settlement policies are applicable in this case. The site is not allocated for housing and there are no nearby housing allocations. This is not an area where the Council's policies support new house building and development here is likely to be car dependant with any journey to nearby amenities on narrow unlit lanes with no footpaths.
- 7.3 The Council is in the fortunate position of having a recent adopted Local Plan (July 2017) which considered such matters in some depth. Recent government publication of housing delivery tests indicate that the Council has a very slight shortfall in housing delivery, but that shortfall is very slight. The Swale settlement strategy is set out in Policy ST3 of the Local Plan. Policy ST3 clearly states that;

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

This proposal fails to meet these criteria and, despite Dargate coming under considerable pressure for new residential development following the subdivision of agricultural land in recent years, there are a number of cases very close to this site where development has been refused and dismissed at appeal in recent years due to the remote location of Dargate outside any established built-up area boundary.

- 7.4 An application for a two bedroom bungalow at a nearby property known as 'Acorns' was refused by the Planning Committee in 2014 under planning reference SW/14/0391. It should be noted that this application referred to an existing garage building which had previously been a separate dwelling, but was changed to garage use many years previously. The appeal was dismissed under reference APP/V2255/A/14/2223979, with the Inspector noting that;

*'Dargate is a small village with no facilities or services, with the exception of a public house. The local filling station, just outside the village, has an associated small convenience store. However, most facilities that are required to meet the needs of residents are at either in Whitstable or Faversham, both of which are about five miles away, or in Canterbury, which requires a journey of more than six miles. Even though there is a local bus service, it seems likely to me that the car would be the most attractive and convenient way for local people to reach their preferred destinations.'*

The Inspector further noted that;

*'I conclude that the proposed dwelling would be an unsustainable form of*

*development, due to its location in the countryside and outside a defined village boundary. It would fail to comply with the Framework's objective of only allowing housing development in rural areas where it can be demonstrated that it would enhance the vitality of a rural community'.*

- 7.5 In a similar vein, an application for the conversion of an existing outbuilding to a dwelling at nearby Brook Farm under planning reference 15/510551/FULL was refused for similar reasons to those under which the 'Acorns' application was refused. That decision was again appealed and dismissed, with the Inspector concluding that;

*'I find that the benefits of this proposal are outweighed by its disadvantages and that this would be an inappropriate location for a dwelling. The appeal is therefore dismissed.'*

- 7.6 An outline application for six new dwellings at nearby Chapel Plantation was appealed under non-determination planning reference 15/505467/OUT. At that appeal the Inspector dismissed the appeal for similar reasons referring to the unsustainable location outside any established built-up area boundary.

- 7.7 It should be particularly noted that, in all of these cases, the Inspectors involved dismissed these appeals before adoption of the Local Plan when the Council could not demonstrate a 5 year supply of housing land and policy ST3 was not part of the Development Plan, ruling against unsustainable development where any benefits are plainly outweighed by the harm it would cause to the countryside. These decisions support the Local Plan settlement strategy and are a sound basis for concluding that Dargate is not an area where new residential development should be permitted due to its isolation and distance from services. Even with the current slight shortfall of housing supply across the Borough I find these decisions provide good evidence that the harm arising from the development significantly and demonstrably outweighs the benefits of a very limited number of new dwellings here, meaning that this development does not represent sustainable development.

- 7.8 This view was shared by the Inspector when determining a very recent appeal from August 2019 regarding the conversion of an existing barn at 'Bracondale', a property virtually opposite the site in question. In dismissing the appeal (APP/V2255/W/19/3226891), the Inspector noted that;

*'the nearest settlement of Dargate has few services or facilities including a pub and other settlements, such as Faversham, with a wider range of services, are a significant distance away. Therefore, it is likely that future occupiers would be reliant on the private car for daily requirements. While there is a bus service, since the road lacks footpaths and streetlights, it would be likely to discourage use of the buses for users of the site thereby leading to likely further reliance on the car. While I note that there are some services in Dunkirk, from the evidence before me, these would not remove entirely the dependence on the private vehicle for daily requirements. Therefore, for the foregoing reasons, the proposal would result in adverse environmental impacts.'*

- 7.9 Finally, much has been made by the applicants of the Council's recent approval of a new self-build dwelling at nearby Little Miss Acres Farm. However, in that instance

Members were minded to approve that application as an exception to normal Local Plan policy due to the fact that there had once been a dwelling on the site and planning permission had once been granted to replace it. That situation is not repeated here and those circumstances do not support the current application. In my view, the fact that Members have granted planning permission for a self-build project nearby on a site specific basis that must reduce the outstanding need for such development, reducing the benefits of this application.

- 7.10 In conclusion, there is no relevant planning policy which supports new residential development at this rural location, and in my view approval of this application can only lead to pressure for other subdivided plots of agricultural land to be developed for housing. I am seeing mounting pressure for new residential development at Dargate which is becoming a serious concern for me despite support from some sections of the community. I believe that it is important that the Council makes it clear that Dargate is not the sort of location where new development will be supported.

#### Residential Amenity

- 7.11 I note that the distances between the existing and proposed dwellings are within acceptable parameters, and I consider that the proposal would have little effect on the residential amenity of existing residents.

#### Visual Amenity

- 7.12 I am not adverse to the design of the proposed houses. They would appear as traditionally designed dwellings using vernacular materials, but that in itself does not justify new development in the countryside.
- 7.13 The addition of two dwellings here will detract from the character of the rural lane and will affect the open character of the area, all of which add to my concern over the acceptability of the proposal. The revised vehicle turning arrangements introduce a substantial area of prominent hardstanding to the site frontage which is not in keeping with the rural location. The requirement to have clear sightlines from the proposed access points means that the entire site frontage and a stretch of hedgerow beyond will need to be removed. This will significantly affect the amenities of the area and is a significant objection to the application.

#### Rural lanes

- 7.14 This site fronts on to a rural lane designated as one of particular value. The site itself is fronted by a tall hedge that runs elsewhere along this lane, and that across the site frontage would all be lost to facilitate this development. The creation of safe access to two new cottages requires significant hardstanding and loss of existing roadside hedging (much of which is outside the control of the applicants) that which will have a seriously detrimental impact on the character of this lane, contrary to policy DM26. This confirms my view that this site is not an appropriate one for new residential development

#### Other matters

- 7.15 The self-build and affordable benefits of this development accrue only to the applicants,

and the development will not represent a long-term affordable solution to the village's housing needs. The Parish Council is currently exploring a cross-funded scheme elsewhere in the parish, in line with the Council's adopted policy approach. Even if that were not to come forward I do not see this proposal as any kind of substitute, as this location be a favoured one to serve that local need, being in such a remote and unsustainable location. I recommend that Members consider this as a private development with limited public benefits and not as a contribution to affordable rural housing.

## **8. CONCLUSION**

- 8.1 This area has come under considerable pressure for new housing recently, largely arising from the subdivision and sale of agricultural land. This is threatening the loose knit local character of the area; one which is poorly served by local services and is a location where new development is not sustainable. Whilst I appreciate the applicants' position, the policy situation clearly shows that such an application in this unsustainable location, some considerable distance outside any established built-up area boundary, should be refused. To do otherwise would simply encourage others to submit similar applications which can only lead to the erosion of the character and amenities of the area in a manner contrary to national and local planning policy.

### **Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.**

This Appropriate Assessment has been undertaken without information provided by the applicant. The application site is located within 6km of The Swale Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 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.

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. The proposal thus has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

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 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. For similar proposals NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites.



The recent (April 2018) judgement (People Over Wind v Coillte Teoranta, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment solely on the basis of the mitigation measures agreed between Natural England and the North Kent Environmental Planning Group (NKEPG).

NE has stipulated that, when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the (NKEPG) and that such strategic mitigation must be in place before the dwelling is occupied. Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required in this instance.

In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA from collection of the standard SAMMS tariff (to be secured by either s106 agreement or unilateral undertaking on all qualifying developments) will ensure that these impacts will not be significant or long-term. I therefore consider that, subject to mitigation, there will be no adverse effect on the integrity of the SPA and this is a matter that may still need to be resolved at appeal stage.

It can be noted that the required mitigation works will be carried out by Bird Wise, the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, which itself is a partnership of local authorities, developers and environmental organisations, including SBC, KCC, Medway Council, Canterbury Council, the RSPB, Kent Wildlife Trust, and others.

**9. RECOMMENDATION** - Refuse for the following reason:

**REASON**

- (1) The proposed pair of cottages and associated new access arrangements would, by virtue of being situated in an unsustainable location at a considerable distance outside any established built-up area boundary, in an Area of High Landscape Value, and requiring significant changes to the appearance of the lane, represent unsustainable and undesirable consolidation of sporadic development contrary to the approved Swale settlement strategy. This would be harmful to the character of the local landscape, harmful to the character of the rural lane and detrimental to the character of the countryside as a whole, contrary to policies ST1, ST3, ST7, DM14, DM24 and DM26 of Bearing Fruits 2031: The Swale Borough Local Plan 2017; and Paragraphs 8, 11, 12, 64 and 78 of the National Planning Policy Framework.

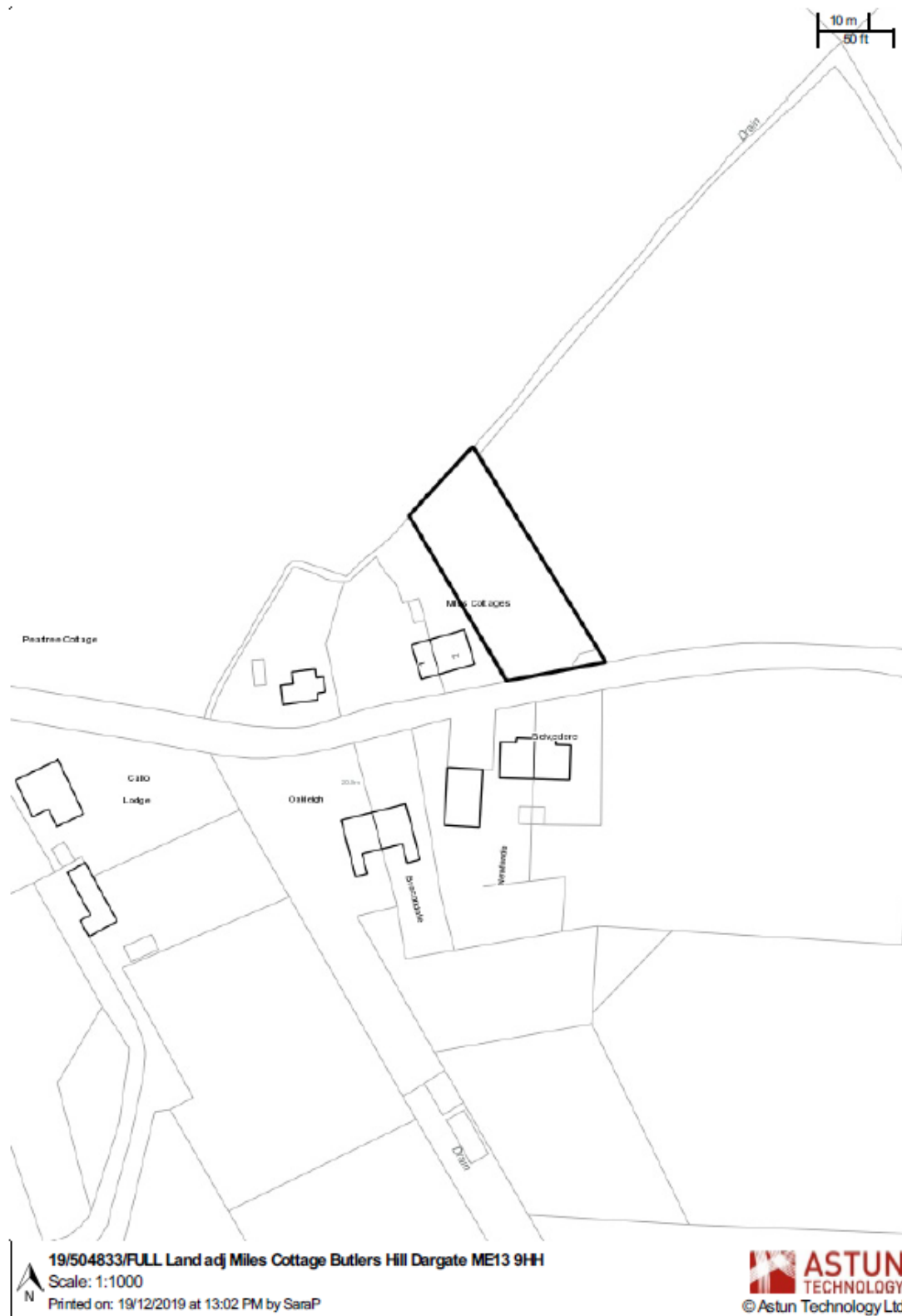
**The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and 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 – 9 JANUARY 2020**

**PART 5**

Report of the Head of Planning

**PART 5**

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

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- **Item 5.1 – Sheerness Holiday Park, Halfway Road, Minster**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The building is the subject of an extant enforcement notice requiring its complete removal, which Officers will now progress.

- **Item 5.2 – Land situated at Goldstone, Augustine Road, Minster**

**APPEAL DISMISSED**

**ENFORCEMENT APPEAL**

**Observations**

My Officers will now seek compliance with the requirements of the notice.

- **Item 5.3 – 8 Salmon Crescent, Minster**

**APPEAL ALLOWED**

**DELEGATED REFUSAL**

**Observations**

This decision conflicts with the Council's longstanding design guidance. The Inspector's rationale for allowing the appeal appears to be purely on the basis that the extension is angled away from the neighbouring dwelling. This, in my view, does little to minimise its impact on the streetscene.

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## Appeal Decision

Site visit made on 13 November 2019

**by Mr Kim Bennett BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 28<sup>th</sup> November 2019**

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**Appeal Ref: APP/V2255/W/19/3225039**

**Sheerness Holiday Village, Halfway Road, Minster-On-Sea ME12 3AA**

- 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 A Johnstone (Cosgrove Leisure) against the decision of Swale Borough Council.
  - The application Ref 18/506581/FULL, dated 3 December 2018, was refused by notice dated 15 February 2019.
  - The development proposed is the erection of a replacement maintenance shed (resubmission of 15/505069) with reduced height and revised elevation treatment)
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the development affects the significance of the Queensborough Lines heritage asset.

### Reasons

3. The appeal site is within Sheerness Holiday Village which comprises a large site accommodating an extensive number of static mobile homes together with ancillary buildings and facilities and is located on the eastern side of Halfway Road. More specifically, that part of the site which is the subject of this appeal is the maintenance yard adjacent to the north west boundary, within which there is an existing large maintenance shed. This is rectangular in floorplan with a shallow pitched roof and clad in green coloured profiled metal sheeting. The proposal is to keep the same size footprint but reduce the ridge height from its current height of 6.5 metres to 4.5 metres. It would also be reclad with a slate tiled roof and timber boarded walls to its upper parts.
4. To the west of the site is a car breakers yard with open and stacked storage of vehicles, whilst to the east is open land.
5. Adjoining the site to the north is the Queensborough Lines, a fortification built in the 1860s to protect Sheerness dockyard from land attack. The lines were designated as a scheduled monument in 2012 and is therefore a designated heritage asset as defined in the National Planning Policy Framework (the Framework).

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<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/V2255/W/19/3225039

6. The lines took the form of a rampart some 3 metres high behind a wet ditch of approximately 23 metres wide. Behind the rampart to the north, a broad flat covered way was protected from potential enemy fire. To the south of the main ditch and to the north of the covered way, small 'catchwater' ditches were also dug. Although largely straight, the central part of the rampart was offset to provide a position for flanking fire along the ditch. In the central part, the rampart was set back to create short flanking positions to defend the causeway (now Halfpenny Road) which lies to the west of the appeal site. Following the defeat of France in the Franco-Prussian War of 1870-71, the immediate threat of invasion was removed and the fortification was not completed as originally intended.
7. Notwithstanding the above, and despite development of Sheerness in close proximity to the north, the fortification has survived remarkably intact and its original purpose is easily understood. Apart from the significance of the fortification itself however, the open land to the south contributes significantly to its setting and indeed helps to understand and interpret the primary purpose for it being there in order to defend a potential attack from the south across open and low lying pasture land. Unfortunately, that setting has been partially eroded over time with the establishment of the holiday park and the car breakers alongside. Nevertheless, whilst that is unfortunate, the open setting formed by the low lying land is still very much in evidence when standing on the bridge at Halfpenny Road and looking in both directions, and from Canal Bank on the northern side of the fortification.
8. A previous proposal to retain the maintenance shed in its current form was dismissed on appeal in August 2018 with an appeal against an enforcement notice being dismissed at the same time (the 2018 appeals)<sup>1</sup>. In reaching those decisions, the Inspector found that the building would further erode the open character to the southern side of the Lines, further diminishing the contribution that the area makes to the setting of the monument.
9. In support of the revised proposal, the appellant considers that the reduced height of the building would make it hardly visible compared to the car breakers alongside and that its impact would not be much greater than the maximum dimensions allowed for a twin unit caravan under the Caravan Sites Act 1968. It is pointed out that the Council accepts that any harm is less than substantial and that the setting of the lines has already been prejudiced. It is also suggested that there is no other suitable site for such a facility.
10. In conducting my site visit, as well as looking at the building from within the holiday village itself, I took the opportunity to view the impact from the bridge over Halfpenny Road as well as walking along Canal Bank, starting from the bridge and then eastwards to where the wet ditch narrows. From all vantage points, the building is particularly conspicuous and appears as a dominating and incongruous structure seen against the skyline. As such I agree with the previous Inspector that it further erodes the open setting of the monument to the south. I acknowledge that the revised height of the building would have a reduced impact, but because of its extensive size, not appreciably so. It would still stand out against the skyline and intrude into the setting, particularly because of the low lying nature of vantage points from the north of the Lines as well as the south. I do not consider that such impact would be mitigated by

<sup>1</sup> Appeal references APP/V2255/W/17/3181475 & APP/V2255/C/17/3181476.



Appeal Decision APP/V2255/W/19/3225039

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the proposed change in materials; it is the size of the structure itself intruding into the setting which would be the major concern.

11. I also do not agree with the appellant's contention that the building would not be appreciably larger than the maximum size of additional twin unit caravans which could be permitted on the site without any further permission. On the contrary, it would be some 2.2 metres wider and 1.5 metres higher and also of a significantly greater mass and different form and character. Its impact and therefore effect upon the setting of the monument would therefore be very different.
12. As noted above, I acknowledge that the setting of the monument has already been somewhat compromised by the establishment of the holiday village and the adjacent car breakers. However, as the previous Inspector observed in the 2018 appeals, that is not a good reason for additional harmful development that might further erode the setting of the monument. In my view that would still be the case with the revised proposal which would remain the single largest structure on the south side of the Lines. I also note the appellant's reference to the Council having granted permission for an industrial park on the adjacent car breakers site. There is no detail before me in that respect and I am not aware if that was granted prior to the scheduling of the monument in 2012 or not. In any event, the appellant points out it has now lapsed and therefore it has not been decisive in reaching my finding above.
13. Drawing the above together, I find that the revised proposal would still erode the open setting of the southern side of the monument and as a result would harm the significance of the heritage asset. As such it would be contrary to Policies CP8, DM14 and DM34 of the Council's Local Plan 2017, in that it would not respect the integrity of the heritage asset nor assist in its interpretation, would not be appropriate to its location and would adversely affect the setting of a scheduled monument.
14. The Framework advises in paragraph 193 that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
15. In the context of the above, the proposal would cause less than substantial harm to the significance of the heritage asset. In such circumstances, paragraph 196 of the Framework advises that the harm should be weighed against the public benefits of the proposal. In dismissing the 2018 appeals, the Inspector noted that a secure service yard and building might be required for a well maintained park and having regard to its contribution towards tourism in the area, that could be regarded as a public benefit.
16. However, the Inspector also noted that the public benefit did not outweigh the harm identified, which is what the appellant currently suggests, and that in any event it had not been demonstrated that there was no other alternative location available. In my view that remains the case, and apart from a statement from the appellant, there is no evidence or detailed explanation before me to substantiate that point. Furthermore, there is no particular evidence that the building needs to be of the size or height proposed for functional reasons. In that respect I noted that current storage is primarily

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smaller sized items and relatively small service vehicles, which it seems to me could equally be accommodated in a smaller building(s).

**Conclusion**

17. For the reasons set out above, the proposal would cause harm to the significance of the setting of the Queensborough Lines scheduled monument for which there is no clear or convincing justification, and would therefore conflict with guidance in the Framework and policies in the LP as noted.
18. Accordingly, the appeal should be dismissed.

*Kim Bennett*

INSPECTOR



## Appeal Decision

Site visit made on 12 November 2019

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2019

**Appeal Ref: APP/V2255/C/19/3231874**

**The land situated at "Goldstone", Augustine Road, Minster ME12 2LZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Haig Squire against an enforcement notice issued by Swale Borough Council.
- The enforcement notice was issued on 13 May 2019.
- The breach of planning control as alleged in the notice is without planning permission, the detached brick and block outbuilding constructed at the rear of the premises, the approximate position of which is highlighted on the plan, which in the opinion of the Council would require planning permission.
- The requirements of the notice are:
  - (i) Demolish the brick and block outbuilding shown in its approximate location hatched blue on the attached plan.
  - (ii) Remove from the Land all debris, rubbish and rubble arising from the works undertaken in (1) above.
  - (iii) Break up and remove all hard standing located in its approximate position hatched blue on the attached plan and return the Land to its original condition either laid to lawn or flower beds.
  - (iv) Make good any boundary fencing arising from the above compliance steps.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld with corrections and variation in the terms set out below in the Formal Decision.**

### Preliminary Matters

1. The notice alleges the unauthorised construction of an outbuilding to the rear of the premises. The appellant suggests that the building has been constructed to take advantage of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). This grants planning permission for buildings incidental to the enjoyment of a dwellinghouse subject to a number of criteria. I note that he concurs with the Council that the building as constructed does not meet the size requirements of the GPDO and I will return to that in the appeal on ground (f). However, I also note that the Council suggest the building is not in use incidental to the dwellinghouse.
2. The breach of planning control alleged, at section 3 of the notice, refers to the need for planning permission for the development twice. This is unnecessary so

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I shall correct the notice to refer to it only once. I also note that the requirements refer to (1) in (ii) and this would be better expressed as (i).

#### **The Appeal on Ground (f)**

3. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek the demolition of the building, in order to restore the land to its condition before the breach took place. Clearly, therefore, the purpose of the notice requirements is to remedy the breach of planning control.
4. The appellant suggests that the notice should be varied to enable the extension to be largely demolished and reconstructed in line with the GPDO. However, under the GPDO it is not possible for development to become permitted development retrospectively. It would be necessary, therefore, for the extension to be completely removed prior to undertaking any new construction that might benefit from a planning permission granted by the GPDO.
5. Nevertheless, the requirements of the notice, at (iii), also include the removal of hard standing and, in returning the land to its original condition, either lay lawn or flower beds. However, removal of the hard standing exceeds what is alleged in the breach of planning control and laying lawn or flower beds exceed what is necessary to remedy the breach of planning control.
6. For these reasons, I conclude that the appeal under ground (f) should succeed to the limited extent I have described. I will vary the notice at (iii) to state accordingly.

#### **Formal Decision**

7. It is directed that the enforcement notice is corrected by:
  - In Section 3 deleting the words “, which in the opinion of the Council would require planning permission”;
  - In Section 5(ii) deleting “(1)” and Substituting “(i)”.
8. It is directed that the enforcement notice (as corrected) is varied in Section 5 by deleting all the words in the requirement (iii) and substituting instead the words “Return the Land to its original condition”.
9. Subject to the corrections and variation, the appeal is dismissed and the enforcement notice is upheld.

*AJ Steen*

INSPECTOR

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## Appeal Decision

Site visit made on 12 November 2019 by C Brennan BAE (Hons) M.PLAN

**Decision by Andrew Owen BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 10 December 2019**

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**Appeal Ref: APP/V2255/D/19/3236298**

**8 Salmon Crescent, Minster-On-Sea ME12 2SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Bennett against the decision of Swale Borough Council.
  - The application Ref 19/502744/FULL, dated 28 May 2019, was refused by notice dated 6 August 2019.
  - The proposed development is a two storey side extension.
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### Decision

1. The appeal is allowed, and planning permission is granted for a two storey side extension at 8 Salmon Crescent, Minster-On-Sea ME12 2SP, in accordance with the application, Ref 19/502744/FULL, dated 28 May 2019, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  3. The development hereby permitted shall be carried out in accordance with the approved plans: 8122, Block Plan dated 24 May 2019 and 12219.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

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

### Reasons for the Recommendation

4. The appeal site accommodates a two-storey property on the northern side of Salmon Crescent, a residential area characterised in part by the sense of spaciousness between buildings. The appeal property forms one end of a terrace of three houses which are adjoined at ground-floor level. No. 10, a detached dwelling situated on the adjoining site to the west, is positioned at an angle away from the appeal property and has its garage closest to No 8. The
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existing garage on site is set back from the side boundary with No. 10 by around 1.2m.

5. The extension would be above and behind the existing garage and so would not be any closer to No 10 than the existing garage. At its closest, the proposed extension would be situated approximately 2m away from the side elevation of the garage of No. 10. However, due to the angled siting of No. 10 relative to the appeal property, the distance between the extension and the garage at No 10 would increase towards the road frontage, with a distance of around 5m between the southwestern corner of the appeal dwelling and the southeastern corner of No. 10 at ground floor level. There would be a greater distance between the two properties at first-floor level above No. 10's garage. Due to the substantial distance between the building at No. 10 and the proposed two storey side extension at first-floor level, a significant gap would be retained between both properties and hence the proposal would not appear visually linked to No. 10 at first-floor level or result in a loss of openness. As such, it is considered that the proposal would preserve the spacious quality of the surrounding area.
6. The 'Designing an Extension: A Guide for Householders' Supplementary Planning Guidance (SPG) states that first floor extensions should be at least 2m from the shared boundary in order to avoid a "terracing" effect and retain a sense of openness. Although the extension would not meet this standard, due to the angled relationship between No 10 and the appeal property I consider the development would retain the spaciousness between the properties and so it would accord with the overall aims and objectives of the guidance.
7. For the reasons above, I conclude that the proposal would not cause harm to the character and appearance of the surrounding area. The proposal would therefore comply with Policies DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan (2017), which state that development must enhance the built environment and the character of the streetscene. It would also comply with paragraph 5.0 of the Designing an Extension: A Guide for Householders SPG, which states that two-storey side extensions should not result in the loss of openness between properties.

#### **Conditions**

8. The conditions which are imposed are those which have been suggested by the Council. In addition to the standard timescale condition, I have imposed a condition requiring that the scheme be built in accordance with the approved plans for the avoidance of doubt. I have also required that the materials used should match those of the existing building, so as to preserve the character and appearance of the area.

#### **Conclusion and Recommendation**

9. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*C Brennan*

APPEAL PLANNING OFFICER

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**Inspector's Decision**

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Andrew Owen*

INSPECTOR

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