

<b>2.10 REFERENCE NO - 18/503259/FULL</b>			
<b>APPLICATION PROPOSAL</b> Material change of use of land for stationing of caravans for residential occupation with associated development (hard standing, utility building and cess pit).			
<b>ADDRESS</b> Land At Old Billet Lane Eastchurch Kent ME12 4JJ			
<b>RECOMMENDATION</b> Grant subject to conditions			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Proposal would provide a shared stopping pitch for three related traveller families, in an acceptable location and without significant harm to local amenity.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection, and Called in by Cllr. Tina Booth.			
<b>WARD</b> Sheppey East	<b>PARISH/TOWN COUNCIL</b> Eastchurch	<b>APPLICANT</b> Mr & Mrs V and C Brown <b>AGENT</b> Heine Planning Consultancy	
<b>DECISION DUE DATE</b> 12/09/18	<b>PUBLICITY EXPIRY DATE</b> 22/08/18		
<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>
16/502333/FULL	Variation of condition 1 of SW/04/1330 to allow three mobile homes and an ancillary building.	Granted	2016
This permission varied the consent on a <b>nearby site</b> to the north along Old Billet Lane, to allow an additional caravan to cater for household expansion.			
SW/04/1330	Stationing of 2 caravans for permanent residential use by a gypsy family.	Granted.	2004
Permission was granted by the Planning Committee for permanent residential use of a <b>nearby site</b> to the north along Old Billet Lane as it would not have given rise to significant harm to the character of the countryside or local residential amenity.			
SW/79/0563	Erection of stables and garage block.	Granted.	1979
Permission granted for erection of stables and garage on detached garden serving 4 Coastguard Cottages.			

**1.0 DESCRIPTION OF SITE**

1.01 The application site is a small parcel of land on Old Billet Lane, which is an unmade track off Plough Road, to the west of Eastchurch. The land, along with neighbouring plots, formerly served as a detached garden for 4 Coastguard Cottages, one of a small row of cottages fronting on to Plough Road.

- 1.02 The site measures approximately 35m x 12m, and is accessed directly from Old Billet Lane. It is enclosed to the front by a post and rail fence, and to the sides by low fences shared with neighbouring plots. Permission was granted in 1979 (SW/79/0563) for the erection of a stable block and garage on the site, which remain in situ. The garage is towards the front of the site, facing the vehicle access and with an area of grass and a concrete pad to the side; the stables lie to the rear of the garage, lengthways across most of the site; to the rear of the stables is an area of grass leading to a static caravan across the rear of the plot. All of the structures appear to have been unused for a considerable time.
- 1.03 The plot immediately to the south remains in use as a detached garden for one of the cottages, and during my visit I noted garden and play equipment on it. The plot to the north contains a small static caravan, touring caravan and storage container, but none of them appear to be in regular use.

## 2.0 PROPOSAL

- 2.01 This application seeks permission for change of use of the site from a garden to a residential caravan site, to allow the stationing of a static caravan and touring caravan, the erection of a utility building, the laying of hard-standing, and the insertion of a cess pit.
- 2.02 The site is intended to be used by three traveller families as a shared stopping place. The families are all related:
1. Mr Vanslow & Mrs Carol Brown; and their sons
  2. Mr Vanslow Brown & Ms Leah Stagnall, and their son (5yrs); and
  3. Mr Thomas Brown & Ms Lisa Marie Smith, and their daughter (2yrs).
- 2.03 The submitted Planning Statement sets out that the site would be permanently occupied by Mr & Mrs Brown (senior), while the sons would park up in a touring caravan periodically on a shared basis, dependent on whoever's need was greatest at the time. **It is not proposed to have all three families living at the site at the same time.** The Planning Statement comments:
- “The site would be shared by the family and occupied according to whoever's need is greatest at the time. But it is expected that Mr and Mrs Brown would occupy the mobile home and one of their two sons would have use of the touring caravan.”*
- 2.04 The submitted layout plan shows that the existing stable block would be moved to the rear of the site (the existing caravan being removed); a static caravan positioned in the centre of the site with garden area surrounding; the utility building to the front of the static caravan with a touring caravan space to the front of that; and three parking spaces to the very front of the site, adjacent to the existing access. The cess pool would be positioned at the front of the site. The existing garage is to be demolished.
- 2.05 The static caravan would be of standard scale and design, although the Planning Statement notes the precise size and design can't be prescribed in the application as the families frequently trade caravans when travelling.
- 2.06 The proposed utility building will measure approximately 3m x 4m x 3.5m high, with a pitched roof. Internally it will provide a utility room, bathroom, and toilet.

### 3.0 SUMMARY INFORMATION

	<b>Proposed</b>
Site Area	0.04ha (420sqm)
Parking Spaces	3
No. of Residential Units	1
No. of Caravans	1 static, 1 touring

### 4.0 PLANNING CONSTRAINTS

4.01 The site lies within an area of Potential Archaeological Importance

### 5.0 POLICY AND OTHER CONSIDERATIONS

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

5.01 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments and the NPPF was updated earlier this year. 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 paragraph 8 are particularly pertinent:

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

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

5.03 In relation to rural housing the NPPF (at paragraph 79) states;

*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;*
- c) *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.*

5.04 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)**

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

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

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

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

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

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

- a) *promote peaceful and integrated co-existence between the site and the local community*
- b) *promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) *ensure that children can attend school on a regular basis*

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

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

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

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

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

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

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

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

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

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

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

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

The implications for this change in definition has affected the issue with regard to defining need, and this matter is addressed through the policies set out in the Council adopted Local Plan, which is explored below.

- 5.10 The Council has responded positively and quickly to the changes in the national policy position in respect of Gypsy and Traveller accommodation. The Local Development Framework Panel quickly supported the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2013 and identified a need for 82 pitches to be provided during the plan period (adjusted down from 85 pitches in reflection of those sites granted permanent permission whilst the document was under preparation). This need figure was incorporated within the draft Bearing Fruits Swale Borough Local Plan: Part 1 alongside a policy introducing provision for pitches on certain major development sites. An additional net 47 permanent pitches (some with personal use conditions) had also been approved up to March 2015, reducing the outstanding need to 35 pitches over the Plan period. Further permanent permissions have since been granted. A further number of pitches enjoy temporary permissions.
- 5.11 Shortly after publication of the GTAA in 2013 the Council began work on Part 2 of the Swale Borough Local Plan which was intended to deal with site allocations for Gypsy and Traveller pitch provision only. This process began with a call for sites between September and December 2013, and the publication of an issues and options paper which was subject to public consultation (this finished on 25 April 2014). The Local Plan was subject to examination in November 2015 and formally adopted in July 2017.

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

- 5.12 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 character area, where the document advises that boundary planting should be restored / introduced to enhance the character of the narrow, enclosed lanes. It also advises that key views of the coast should be protected. I do not consider that landscape impact is a significant potential objection to development here.

**Bearing Fruits 2031: The Swale Borough Local Plan 2017 adopted 26 July 2017**

- 5.13 The Council's GTAAs published in 2013 and suggested a pitch target of 85 pitches to 2031. The revised PPTS (2015) changed the planning definition of a gypsy and traveller, and therefore changed the number of pitches that needed to be identified. Evidence to the Local Plan's Examinations In Public (EIP) in 2015 and 2017 was that the Council had re-interrogated the original GTAA data to determine the appropriate level of pitch provision based on the new 2015 PPTS revised definition of gypsies and travellers. The data revealed that for all but unauthorised sites some two-thirds of households surveyed for the GTAA either never travel or travel not more than once a year. Overall, only 31% of respondents travel a few times a year, and 55% never travel, meaning that in Swale the gypsy and traveller population is quite settled, slightly more so than elsewhere in the country. Many current site occupants no longer meet the new PPTS definition of having a nomadic habit of life.
- 5.14 Accordingly, the need for pitches in Swale was re-evaluated, resulting in a reduced estimate of pitch need from 85 pitches down to 61 pitches over the Plan period to 2031; this being the most generous (highest) of the possible reduced pitch number scenarios considered. As a result of this analysis the future need for new pitches throughout the Local Plan period is based on a figure of 61 pitches to 2031, leaving (at the time of the Local Plan EIP) a need per year of less than one pitch, meaning that no formal pitch allocations will be needed, and future site provision could reasonably be expected to be catered for via windfall planning applications. Draft Local Plan Policy DM10 was then revised to deal with these windfall applications. Accordingly, a Part 2 Local Plan was not required - see paragraphs 11 to 14 of Part 3 of the Inspector's Interim findings of March 2016 (attached to this Statement). The Inspector confirmed that the Council's approach to this matter was well reasoned and pragmatic and she also accepted (in her paragraph 14) that the Council's approach would result in a Plan that will be effective and consistent with national policy.
- 5.15 The commentary on Issue 7 in the Inspector's final report of June 2017 (also attached) at paragraphs 85 to 91 confirms this line of thinking. The Inspector's support for the Council's approach to pitch requirements is re-affirmed in paragraph 90. At that time 51 permanent pitches had been approved by the Council since the GTAA was commissioned and the remaining pitch supply need to 2031 was just 0.2 pitches per annum. Despite formal objections, the Inspector discounted any concerns about site supply by referring to this very small remaining need (over the full plan period) and adding that the early review of the Plan (required for other reasons) would deal with any concern about the five year supply situation. Since then a further 12 permanent pitches have been approved and site supply (63 pitches permanent pitches since 2012) now exceeds the need estimate accepted by the Local Plan Inspector.
- 5.16 It has recently been suggested (at the Spade Lane appeal hearing on 31 October 2017 – see decision attached) that the Local Plan Inspector ordered an early review of the Plan due to concerns over the accuracy or adequacy of the 2013 GTAA. Whilst the Council has commissioned a new GTAA to inform the review of the Plan this is not so, and it is clear from paragraphs 5, 18 to 20, 51 and 95 to 106 of the Local Plan Inspector's final report that it was due to the need to consider strategic highway capacity to meet the Borough's proposed housing targets (not to review the GTAA evidence) that the early review of the Plan was deemed necessary
- 5.17 The Local Plan has now been adopted, and thus the position has been formalised. The key adopted plan policy to deal with windfall planning applications for new sites



now is DM 10 (Gypsy and Traveller sites). Policy DM10 of the adopted Local Plan states:

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

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

**Part B: Gypsy and Traveller sites**

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

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

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

5.18 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. The appeal site is in such a poorly located position and subject to the strictest restraint on new development.
- **DM24** (Conserving and enhancing valued landscapes). This policy seeks to safeguard the AONB and other areas.
- **DM26** (Rural lanes). This policy replaces policy RC7 with the same aim of conserving the character of rural lanes including Plough Road (off which Old Billet Lane is accessed).

### Five year supply position

5.19 The revised pitch requirement to 2031 that was accepted by the Local Plan Inspector amounted to 61 pitches. In the Council's Hearing Statement submitted in January 2018 the total number of pitches approved since 2013 with permanent planning permission was 63. This figure has now changed.

5.20 In February 2018 an appeal decision granted a permanent personal planning permission for two pitches at Windmill Farm, Yaugher Lane, Hartlip. In May 2018 the Council approved a revised site layout for 40 pitches at Brotherhood Woodyard (BW), Dunkirk resulting in a net pitch increase of 11 pitches (each with a static and touring caravan). Finally, in June 2018 the Council approved a brand new twin pitch site at London Road, Newington. The result of this is that 15 further pitches have been approved in 2018, taking the overall supply since 2013 to 78 pitches, 17 above the agreed need.

5.21 Of these, 21 pitches have not been implemented including one at Breach Farm Paddocks (previously classed as implemented), 11 at BW, and two at Newington. Total completions stand at 57 including the 2013 permission for 19 additional pitches at BW, or 38 without those 19 pitches which have been disputed at recent appeals. For the sake of caution (and to replicate the approach taken by the Spade Lane Inspector) the Council has worked out the five year supply figures with and without assuming implementation of the 2013 planning permission at the BW site.

5.22 If the five year supply is now calculated on the basis of the last monitoring year, the maths is as follows:

- GTAA target to 2031 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement  $[(23/ 14 \text{ years}) \times 5] = 8.21$  pitches
- Annual need  $[6.57/5] = 1.64$
- Total 5 yr supply = 8
- Land supply in yrs  $(8/1.31) = \underline{\underline{4.88 \text{ years}}}$

5.23 If supply is being calculated **live**, we should include the whole of the recent approval at Brotherhood Woodyard (BW) in supply (a net increase of 30 pitches), rather than the existing 19 pitches (assumed not to be delivered or suitable for gypsies and travellers with caravans in the wrong place, possibly occupied by non-gypsies/travellers, and with no space for tourers), and the following updates are required:

- Need should come down by one pitch, reflecting the approval at Windmill Farm of two pitches, but the removal of Breach Farm Paddocks.
- The supply of sites should be increased by 32 (30 at Brotherhood Woodyard, and two at Newington) from 8 to 40.

5.24 The maths is then as follows:

- GTAA target to 2030/31 = 61
- Completions to May 2018 = 38 (excluding BW, but including two pitches at Windmill Farm and discounting one pitch at Breach Farm Paddocks)
- Residual Requirement = 23 (61 minus 38)
- 5 yr requirement  $[(23/13) \times 5] = 8.85$  pitches
- Annual need  $[8.85/5] = 1.77$
- Total 5 yr supply = 40
- Land supply in yrs  $(40/1.77) = \underline{\underline{22.6 \text{ years}}}$

5.25 In other words the Council can show almost 5yrs supply, or well in excess of 5yrs supply, either way the numbers are calculated, even if the 2013 approval at BW is deleted from the figures as per the logic of the Spade Lane decision.

5.26 If you assume the 2013 permission at BW was implemented, 19 is added to the end of year completions figure and live figure (57) and deducted from the live supply (now 21). And then recalculate – still well over 5 years in either case.

## 6.0 LOCAL REPRESENTATIONS

6.01 6 letters of objection have been submitted by local residents, raising the following summarised issues:

- Old Billet lane is narrow, and vehicles to service / empty the cess pit will block access;
- Additional damage and maintenance to Old Billet Lane arising from additional vehicles;
- There is no cess pit so a new one would have to be installed;
- No pedestrian access to the application site;
- Plough Road is narrow in sections and has no pedestrian footway;
- The site is a garden and lies between (detached) gardens for other cottages;
- Loss of privacy and amenity in adjacent gardens;
- Overlooking of Coastguards Cottages;
- Permission has been refused for dwellings in the countryside previously, this should be treated the same;
- The site is remote from shops and services;
- The site is visible from Plough Road and development would be prominent in views;
- Visual impact on the countryside;
- Change of use should have been applied for before the land was sold off;

- The site is within an area of potential archaeological importance;
- Potential for further applications for similar developments on neighbouring parcels;
- SBC is on target to meet its gypsy and traveller pitch requirement, and *“fully expects to achieve its target by virtue of ‘windfall sites’ without the need to create new sites that are unattached to those which already exist”*;
- There are no exceptional mitigating circumstances put forward to justify use of this site (referring to policy DM10); and
- The proposed caravan and utility building would be within 15m of a septic tank on neighbouring land, which would contravene building regulations.

## 7.0 CONSULTATIONS

7.01 Eastchurch Parish Council objects on the following summarised grounds:

- *“The application is for a gypsy site for use as a business address - stated in the application details”*;
- The site is surrounded by residential gardens belonging to neighbouring properties;
- Harm to character and appearance of the countryside;
- Site too small for the number of proposed caravans;
- The site is too small for a cess pit and venting would be harmful to the amenity of the neighbours;
- There would be no grazing area for the proposed stables;
- No family connection in Eastchurch, and the family is based primarily in Surrey;
- The site is isolated and will poorly serve school and health requirements of the applicants and their children;
- Access is along an unmade dirt track which is unsuitable for regular vehicle use, and large vehicles for servicing the cess pit will damage the track.

7.02 Minster Parish Council (the neighbouring parish) neither object nor support the scheme, but comment that they will support Eastchurch Parish Council in whatever stance they take. They do raise a specific query as to whether the site is suitable for keeping horses, however.

7.03 The KCC archaeologist comments that the site is within an area where there have previously been significant remains, but has no objection subject to a standard condition (as set out below).

7.04 No other comments received.

## 8.0 BACKGROUND PAPERS AND PLANS

8.01 The above-noted historic applications are relevant, particularly SW/04/1330 which granted consent for use of land to the north (now known as Brambles) as a residential gypsy site, and 16/502333/FULL which granted consent for an additional caravan at that site.

8.02 The current application is supported by relevant plans, drawings, and supporting statements.

## 9.0 APPRAISAL

### Principle

- 9.01 Firstly: I am satisfied that the applicants and their family fall within the PPTS definition of Gypsies / Travellers. They have provided a comprehensive list of previous stopping places, and I have spoken to the Gypsy Council who has confirmed they know of the family and their history. I have also not been provided with any evidence to discount their Traveller status.
- 9.02 The grant of planning permission (SW/04/1330) for Brambles, a gypsy site just to the north of the current application site, establishes that the use of land on Old Billet Lane for residential gypsy/traveller pitches here is generally acceptable. The committee report for that application sets out:
- “The settlements of Eastchurch and Minster-on-Sea are both a short car drive from the application site. Although it would be preferable for the use to be located closer to a settlement where a range of services were available, this issue does not in itself amount to a reason for refusal in my view.”*
- 9.03 I concur with this assessment, in that Eastchurch village centre is close-by (1.75km / 1.09 miles by road or 1.9km / 1.2 miles by Public Right of Way) and offers a range of services including school, dentist, shop, pub, and bus connections. Minster High Street is roughly 2.5km / 1.6 miles to the west and also offers schools, shop, takeaways, pub, and bus stops. The Council has previously taken the view that 2km is an acceptable distance to services.
- 9.04 Furthermore the site is not within any designated area (AONB, etc.), flood risk zone, groundwater source protection zone, or land instability zone; and there are no listed buildings within the immediate area.
- 9.05 One of the objections received comments that policy DM10 identifies Swale will meet its remaining need for gypsy / traveller sites from windfall sites. The current application site is not allocated and does not form part of an existing site, and therefore meets this windfall criterion.
- 9.06 I therefore consider that the principle of such development in this location is acceptable,

### Landscape and visual impact

- 9.07 I note concerns in respect of the visual impact of the development upon views from Plough Road and the wider character and appearance of the countryside. However, there is space within the plot to allow for soft landscaping which would screen and soften views of the site from public vantage points. Subject to such screening I do not consider that the site would be any more prominent or visually harmful than existing neighbouring sites featuring outbuildings, various structures (storage containers, etc.) and boundary fencing / walls. I also do not consider that – subject to appropriate planting – it would be any more harmful than the existing site circumstances, where the garage and stable block are entirely unscreened.
- 9.08 I consider the proposed amenity building to be of an appropriate scale and design, and do not consider that it would be a significantly prominent or intrusive feature in the landscape when viewed in context with garages and outbuildings on the neighbouring plots, or against the current site circumstances.

### Amenity

- 9.09 The plot is of a sufficient size to provide an acceptable standard of amenity for future occupants (even taking into account one of the applicant's sons and their family parking up on the touring caravan spot) and in that regard I have no serious concerns.
- 9.10 I note objections from local residents in respect of loss of amenity and privacy within the neighbouring detached gardens. I appreciate that residents of Coastguard Cottages do make use of these detached gardens, but it must be recognised that the houses also benefit from private amenity areas immediately to the rear, and these detached gardens are an additional area of space beyond that. Furthermore the two immediately adjoining detached gardens do not particularly enjoy much privacy at present – the boundaries are enclosed by low post and rail fencing and there are clear, unobstructed views of the three plots from Old Billet Lane and Plough Road. I also note objections in respect of overlooking of Coastguard Cottages, but do not consider this particularly likely given the intervening distance, existing boundary fences, and the fact that caravans are single storey.
- 9.11 Whilst I can appreciate the neighbour's objections I am of the view that, were this an application for a bricks and mortar bungalow (on an otherwise acceptable plot – rural restraint policies aside) officers would also recommend approval as amenity harms can be acceptably mitigated to the point that a refusal could not be reasonably sustained. This application is also for a dwelling, albeit a moveable one, but the same rings true in that perceived harms can be mitigated.
- 9.12 I recognise objections commenting on the potential for additional sites to dominate the local settled community, however I do not consider that 2 gypsy / traveller sites on a lane with 8 dwellings could be considered overbearing or dominating.

### Highways and parking

- 9.13 Local objections are noted but I do not share their concern. Normal residential use of this site would not generate vehicle movements to the extent that it would give rise to any serious or significant harm to highway safety or amenity, in my opinion. There are passing places along Old Billet Lane if two vehicles are travelling opposite directions, and any additional vehicles would make use of the existing junction with Plough Road, the same as existing residents.
- 9.14 Concern has been raised in respect of HGVs (to service the cess pit) blocking the road, but this would be relatively infrequent, temporary, and such obstruction would be visible from Plough Road thus providing vehicles the chance to wait somewhere. The proposed driveway for the plot would also provide opportunity for a smaller lorry to pull in off the lane.
- 9.15 I also note concern in respect of maintenance and repair of the lane. This is a common concern along many unmade roads on the Island, and it amounts to a private legal matter.
- 9.16 The site would provide appropriate parking and turning space, and I have no serious concerns in respect of this.

Other matters

- 9.17 Whilst the site is within an area of archaeological potential Members will note that the County Archaeologist has no objection subject to a standard condition.
- 9.18 I note concern in respect of use of the stables for keeping horses, and I am inclined to share these concerns as the close proximity of the stables to the caravan and also to neighbouring gardens would cause problems in terms of smell and general disturbance. The site would also be entirely inadequate in terms of grazing and exercise space. I have asked the agent to clarify the intended use of these stables, as many other gypsy and traveller sites use them as utility rooms. Given that a new utility room is proposed, however, Members may wish to consider delegating to officers to have the stables omitted from the plans, which would leave space for the static caravan to be repositioned slightly, resulting in a larger amenity area in the centre of the site and potential for more substantial boundary planting.
- 9.19 I appreciate objections in respect of the proposed cess pit, however the site is not within a groundwater source protection zone (where the Council would usually exercise caution under relevant Environment Agency guidance) and the matter therefore falls under Building Control Regulations.
- 9.20 The Parish Council's reference to use of the site for business is somewhat misguided, in my opinion. The submitted Planning Statement notes that it would be helpful for the applicants to have a permanent address for business purposes, it does not suggest that they will be using the site to carry out any work. Condition 3, below, also prohibits business use.
- 9.21 The site lies within the SAMMS contribution zone, but the development is below the threshold for contributions as agreed by the Council and Natural England. I have set out an assessment under the Habitat Regulations below. Furthermore I do not consider the site to have potential for any protected species (because it consists of maintained grass, concrete, and buildings with flat roofs where bats generally do not roost), and do not consider that the proposed development would be significantly harmful to wildlife or ecology.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

- 9.22 This Appropriate Assessment (AA) has been undertaken without information provided by the applicant.
- 9.23 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).
- 9.24 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.
- 9.25 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.

- 9.26 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.
- 9.27 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.
- 9.28 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.
- 9.29 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 dwellings are occupied.
- 9.30 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.
- 9.31 Based on the correspondence with Natural England (via the NKEPG), I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed. **However, the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and there are questions relating to the cumulated impacts on schemes of 10 or less that will need to be addressed in on-going discussions with NE.** Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA – I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England’s suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and what is acceptable to officers as a common route forward. Swale Council has adopted a formal policy of seeking developer contributions for larger schemes (those of more than 9 dwellings), and that tariff



amount takes account of and compensates for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that the agreed tariff mitigates for the individual and cumulative impacts of this scheme .**

- 9.32 Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.
- 9.33 I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

## 10.0 CONCLUSION

- 10.01 This application proposes change of use of a piece of land to provide a residential pitch for a traveller family, with the parents occupying a static caravan and their two son's families using the proposed touring pitch as required. The site is in a sustainable location within walking distance of shops, schools, healthcare, and public transport links, and views into / out of the site can be mitigated by soft landscaping. I note objections to the proposal but do not consider them to amount to a justifiable reason for refusal.
- 10.02 Taking the above into account I recommend that planning permission should be granted.

## 11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- 2) The 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.

- 3) 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.

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

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

Reason: In the interests of preventing light pollution.

- 6) No development beyond the construction of foundations and/or the laying of bases 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.

- 7) 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.

- 8) 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.

- 9) 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: To ensure the use does not prejudice conditions of highway safety.

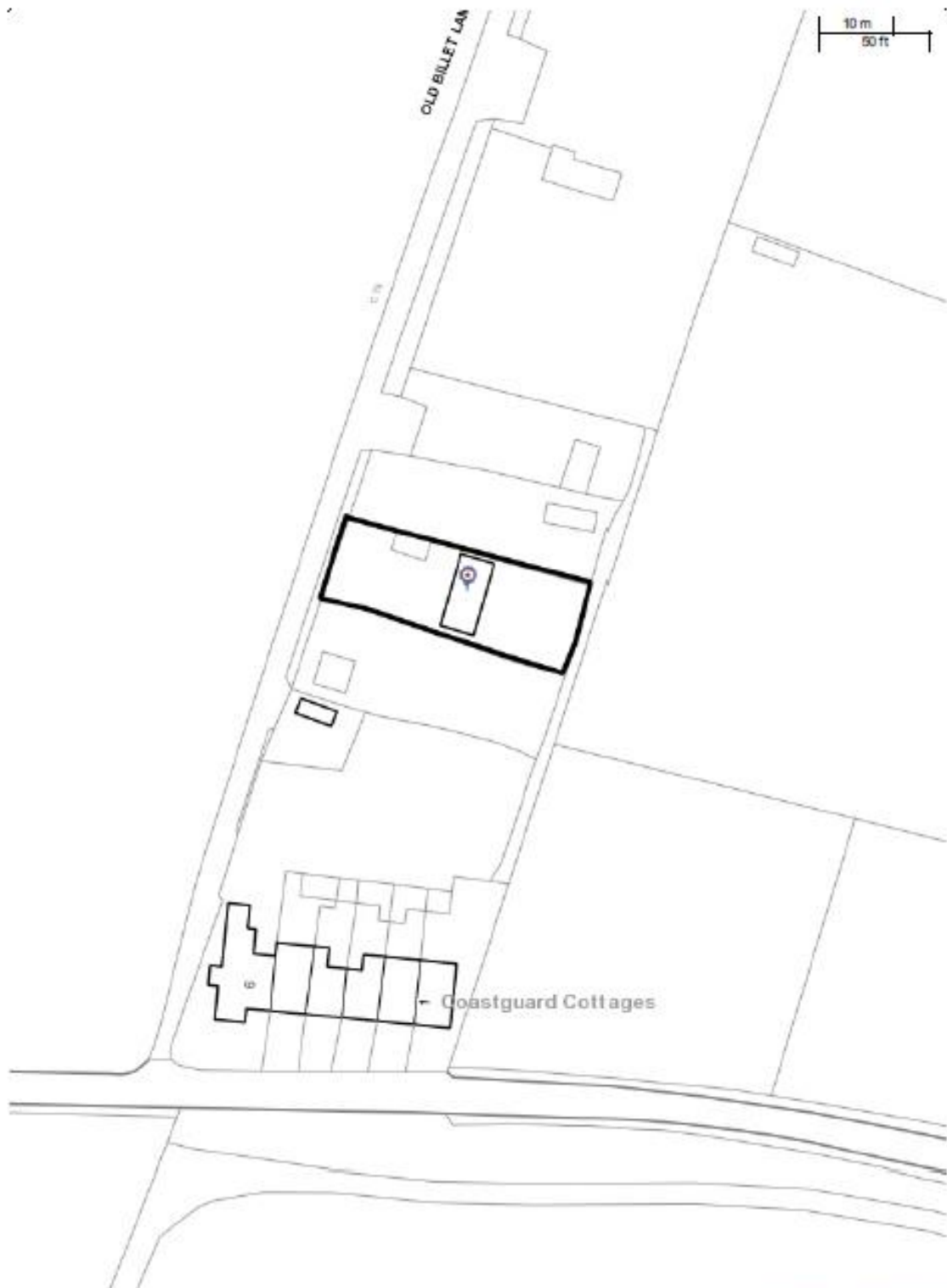
## **THE COUNCIL'S APPROACH TO THIS APPLICATION**

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.

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.



18/503259/FULL - Land At Old Billet Lane  
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