

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

Report of the Head of Planning

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

2.1 REFERENCE NO - 17/500921/FULL		
APPLICATION PROPOSAL 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).		
ADDRESS Dinky Cot, Sunset Close, Eastchurch, Kent, ME12 4JW.		
RECOMMENDATION Grant		
SUMMARY OF REASONS FOR RECOMMENDATION The site will provide a permanent gypsy / traveller pitch in a sustainable location and without giving rise to significant amenity impacts.		
REASON FOR REFERRAL TO COMMITTEE Parish Council objection.		
WARD Sheppey East	PARISH/TOWN Eastchurch COUNCIL	APPLICANT Mrs D. Gray AGENT Heine Planning Consultancy
DECISION DUE DATE 17/04/17		PUBLICITY EXPIRY DATE 28/03/17

Planning HistorySW/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 (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.

