

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

Planning History

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

Appeal History:

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

1. DESCRIPTION OF SITE

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

2. PROPOSAL

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

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

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

3. SUMMARY INFORMATION

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

4. PLANNING CONSTRAINTS

- 4.1 None.

5. POLICY AND CONSIDERATIONS

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

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

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

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

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

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

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

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

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

5.04 Paragraph 79 continues:

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

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

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

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

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

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

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

Planning policies and decisions should ensure that:

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

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

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

5.07 Para. 179 continues;

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

Planning Policy for Traveller Sites (PPTS)

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

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

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

- a. that local planning authorities should make their own assessment of need for the purposes of planning*
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*

- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Swale Landscape Character and Biodiversity Appraisal SPD 2011

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

Bearing Fruits 2031: The Swale Borough Local Plan 2017

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

Part A: Retention of sites for Gypsies and Travellers

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

Part B: Gypsy and Traveller sites

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

- 1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:

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

5.16 Other relevant Local Plan policies are:

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

- ST3 (The Swale settlement strategy). This seeks to guide development to sustainable locations. In this regard urban centres are preferred with sites in open countryside outside any built-up area and with poorest access to services being least favoured. Here, new development will not be permitted unless it has an intrinsic reason for being there and it will protect and/or enhance the countryside. The appeal site is in such a poorly located position and subject to the strictest restraint on new development.
- DM6 (vehicle access) sets out that all new developments need to provide safe, appropriate access to the highway network.
- DM24 (protected landscapes). This policy refers to landscape character areas and the need to protect or enhance their identified qualities.

Five year supply position

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

6. LOCAL REPRESENTATIONS

- 6.1 None received.

7. CONSULTATIONS

7.1 Minster Parish Council objects to the application, commenting:

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

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

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

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

8. BACKGROUND PAPERS AND PLANS

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

8.2 The appeal decisions noted above are also of relevance.

9. APPRAISAL

Principle of development

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

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

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

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

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

Location and accessibility

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

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

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

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

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

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

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

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

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

Visual Impact

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

Residential Amenity

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

Highways and parking

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

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

Other matters

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

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

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

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

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

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

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

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

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

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

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

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

10. CONCLUSION

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

11. RECOMMENDATION

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

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

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

- 2) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the amenity building hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

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

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

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

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

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

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

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

Reason: In the interests of preventing light pollution.

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

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

- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the

development or in accordance with the programme agreed in writing with the Local Planning Authority.

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

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

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

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

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

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

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

INFORMATIVES

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

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

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

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

The Council's approach to the application

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

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

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

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

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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.

