

2.3 REFERENCE NO - 15/502570/FULL			
APPLICATION PROPOSAL Change of use of land to a single gypsy pitch and associated development			
ADDRESS Land Far East Of Plantation Lodge School Lane Iwade Kent ME9 8QH			
RECOMMENDATION GRANT, subject to any further comments received following re - advertisement of the application due to the potential impact on the public right of way (deadline for comments 11th December 2015).			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The application would provide a permanent unit of occupation for a gypsy family, within a sustainable location, and without giving rise to serious amenity concerns or harm to the character or amenity of the countryside.			
REASON FOR REFERRAL TO COMMITTEE Iwade Parish Council objects.			
WARD Bobbing, Iwade & Lower Halstow	PARISH/TOWN Iwade	COUNCIL	APPLICANT Mr D Love AGENT Mr Patrick Durr
DECISION DUE DATE 18/12/15	PUBLICITY EXPIRY DATE 11/12/15	OFFICER SITE VISIT DATE 8/5/15	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
None			
Adjoining planning history;			
Land Adjacent Plantation Lodge Farm (Summer Cottages), School Lane, Iwade.			
SW/11/0708	Change of use of land for the siting of 3 mobile homes for a gypsy family with associated utility blocks, parking for vehicles including touring caravans, services and boundary fence	Approved	
Land North Of Plantation Lodge Farm (Known As Highview), School Lane, Iwade.			
SW/12/0183	Change of use of land for the siting of 2 mobile homes for 2 gypsy families with associated utility blocks, parking for vehicles including touring caravans, services & boundary fence.	Approved	
15/507814/FULL	Variation of Condition 3 of planning permission SW/12/0183 (Change of use of land for the siting of 2 mobile homes for 2 gypsy families with associated utility blocks, parking for vehicles including touring caravans, services and boundary fence) - To substitute previously Proposed Plan 431/02 Rev B for 538/04 to permit; Relocation of mobile home and transient pitch position and relocation of mobile	Current	

	home		
15/504585/FULL	<p>Plot 1 - Proposed replacement day room, and relocation of hardstanding for parking and caravan parking space.</p> <p>Plot 2 - Proposed store, relocation of sealed cesspool and hardstanding for access to mobile home.</p> <p>Change of use of land to provide two gypsy pitches with one sealed cesspool and each with one mobile home, two parking spaces, a transient pitch and associated hardstanding.</p>	Current	
Land Adjoining Summers Lodge, Summers Lane, Iwade.			
SW/12/1413	Siting of a mobile home with associated utility block under gypsy status, complete with associated parking, touring caravan parking, services & boundary fence.	Approved.	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The site lies to the west of Iwade on a byway linking the site to School Lane. The byway is lined with mature trees near the site and it provides access to three other gypsy sites. The site is relatively flat and consists of overgrown grassland. There is a pond and mature trees to the north east of the site and open countryside to the north, east and south.
- 1.02 There are five other gypsy pitches, a workshop and residential caravan to the south west of the site. A permanent dwelling known as Plantation Lodge is approximately 100m to the west and is current being redeveloped.

2.0 PROPOSAL

- 2.01 The application seeks permission for change of use of land to a single gypsy pitch and associated development, including the stationing of one static caravan, one amenity building, one transit pitch, one touring caravan parking space, refuse compound, hardstanding to the front of the static caravan, and associated 2m high close boarded fencing surrounding the site with internal hedges and vehicle access gates. The section of byway that would provide access to the site would have a bituminous macadam road surface.
- 2.02 The static caravan would be of a standard design and the amenity building would measure approximately 5m wide x 8.2m deep x 4.2m high. It will be clad with dark-stained timber boarding and feature a pitched roof with dark grey cement tiles. Internally it will provide a kitchen / day room, bathroom and store room.

3.0 SUMMARY INFORMATION

3.01

	<i>Proposed</i>
Site Area	0.1ha (0.2 acres)
No. of pitches	1
No. of caravans	3 (1 static, 1 tourer and 1 transit)

4.0 PLANNING CONSTRAINTS

4.01 The site is located within a strategic gap, School Lane is a rural lane and there is an area of high landscape value approximately 200m to the north as defined by the Proposals Map of the Swale Borough Local Plan 2008.

5.0 POLICY AND OTHER CONSIDERATIONS

5.01 National Planning Policy Framework (NPPF)

5.02 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*

5.03 The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below – other than H4 – are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

5.04 As above: policy H4 is not considered to be NPPF-compliant, but will ultimately be superseded by a new Core Strategy policy to reinforce NPPF compliance and in particular, the Council will need to allocate sites via a Gypsy & Traveller Site Allocation development plan document and Gypsy & Traveller Assessment. The report to LDF Panel notes that *“in the interim, development proposals which do not have overwhelming material considerations to indicate refusal have been granted temporary planning permission, pending preparation of these documents.”*

5.05 National Policy

5.06 National Policy on Gypsy and Traveller sites is set out in the National Planning Policy Framework and the Planning Policy for Traveller Sites (PPTS). The requirement in both documents is very clear, in that the Council should now set pitch targets which address the likely need for pitches over the plan period. Furthermore, the Council has been required, since 2013, to maintain a rolling five year supply of sites that are in suitable locations and available immediately.

- 5.07 Recent changes to the national Planning Policy for Traveller Sites (PPTS) came into force in August this year. The main aims of the PPTS now are:

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

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

- a. that local planning authorities should make their own assessment of need for the purposes of planning*
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development [NB: there is no Green Belt in Swale]*
- 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 for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

- 5.08 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)

- 5.09 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). Members might like to 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). Members might like to 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). Members might like to note that the last sentence above was added to this paragraph in the 2015 re-issue of PPTS, and the application site is not within any formal designation.

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

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

The Implications for this change in definition has clouded the issue with regard to defining need. At this stage ,given that the application relates to a single pitch , it is advised that the Council should consider the application in the context of the existing GTAA referred to below.

- 5.11 The PPTS was a considerable change in national policy, prior to which national policy was set out in Circular 01/2006 where the original intention was for regionally set pitch targets to be met.
- 5.12 The Council, in my view, responded positively and quickly to that change. The LDF Panel immediately recognised, and supported, the commissioning of a new Gypsy and Traveller Accommodation Assessment (GTAA), which was completed in June 2014 and identified a need for 82 pitches to be provided (adjusted down from 85

pitches in reflection of those sites granted consent whilst the document was under preparation).

- 5.13 From this the Council will also produce a Development Plan Document setting out deliverable sites to meet this need. However it is anticipated that this will take at least three years to become formal policy, as it relies upon successful adoption of the draft Local Plan, entitled "*Bearing Fruits*," which is unlikely to be formally agreed until at least early 2017.
- 5.14 Local Policy
i) *The Swale Borough Local Plan 2008*
- 5.15 SBLP policy E1 sets out standards applicable to all development, saying that it should be well sited appropriate in scale, design and appearance with a high standard of landscaping, and have safe pedestrian and vehicular access whilst avoiding unacceptable consequences in highway terms.
- 5.16 SBLP Policy E6 seeks to protect the quality, character and amenity of the countryside, and states that development will not be permitted outside rural settlements in the interests of countryside conservation, unless related to an exceptional need for a rural location.
- 5.17 SBLP Policy E7 seeks to prevent development that would merge settlements, result in encroachment or piecemeal erosion of land or its rural open and undeveloped character. SBLP Policy E9 seeks to ensure development is sympathetic to landscape character in accordance with the Landscape Character Appraisal SPD.
- 5.18 SBLP Policy H4 explains the Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1 and 2 below.
1. For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:
 - a) there will be a proven need in the Borough for the site and for the size proposed;
 - b) the site will be located close to local services and facilities;
 - c) there will be no more than four caravans;
 - d) the site will be located close to the primary or secondary road networks
 - e) in the case of a greenfield site there is no suitable site available on previously developed land in the locality;
 - f) the site is not designated for its wildlife, historic or landscape importance;
 - g) the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
 - h) there is no conflict with pedestrian or highway safety;
 - i) screening and landscaping will be provided to minimise adverse impacts;
 - j) no industrial, retail, commercial, or storage activities will take place on the site.
 - k) use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
 - l) the land will not be in a designated flood risk area.
 2. Additionally to 1, for proposals for short term stopping places:
 - m) there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months."

5.19 However, policy H4 has largely been superseded by *Planning Policy for Traveller Sites*.

5.20 SBLP Policy E19 requires development proposals to be well designed and SBLP Policy T3 requires adequate parking to be provided. The character of rural lanes is protected by policy RC7.

ii) *Bearing Fruits 2031*

5.21 The Council's Draft Core Strategy has now been replaced by the emerging draft Local Plan, entitled *Bearing Fruits 2031*, which is at examination stage and therefore carries some weight in the determination of applications.

5.22 Policy DM10 of the emerging Local Plan aims to provide pitches for gypsies and travellers as part of new residential developments, stating:

"For housing proposals between 50 and 149 dwellings, one pitch shall be provided for gypsies and travellers. For 150 dwellings and above (or 200 dwellings on previously developed urban sites), unless a commuted sum has been agreed with the Council, 1% of the total number of dwellings proposed shall be serviced and made available to gypsies and travellers as pitches and/or bespoke accommodation, either for sale or rent, as appropriate, and up to a maximum of 10 pitches on any one allocation. Where identified, pitches may also be required to meet an affordable housing need."

5.23 The policy also notes that sites may need to be granted permission individually in order to meet the five-year supply, and this will be subject to certain general criteria, and also compliance with draft policies DM9 and ST3.

5.24 Draft policy DM9 requires applications for affordable housing / gypsy and traveller pitches within rural areas to demonstrate that:

- The site is well located to local service centres and villages, with access to day-to-day services;
- There will be no significant impact upon character and amenity of the countryside; and
- The need for the scheme is clearly demonstrated and justified by the applicant.

5.25 Policy ST3 sets out a settlement hierarchy for when considering proposals for new development, stating that outside of the defined built up areas *"permission will be granted for appropriate development involving...accommodation for gypsies and travellers that cannot be met at housing allocations or within or adjacent locations within"* the identified Borough centres, rural service centres, or other villages with built up area boundaries.

iii) *Corporate Policy*

5.26 In January 2009 the Council published a consultation draft Gypsy and Traveller Corporate Policy to address the issue of gypsy site provision. This recognised that the Borough has traditionally had one of the largest gypsy and traveller populations within Kent and the South-East of England, often related to traditional farming activities.

5.27 The policy is based on meeting the predicted site needs from the Council's original GTAA (and was designed to meet the expected RSS figures) and explains that the

combination of the wide range of pitch numbers potentially required, and the Council's good record of approving small private sites, meant that at this stage a site allocations approach is not the right way forward for Swale.

- 5.28 The Council undertook a full survey of potential sites against a set of criteria in accordance with Government guidance. This included a review of current temporary permissions and an assessment of the potential of publicly owned land to meet the identified need. This site is mentioned in the survey.
- 5.29 This, together with finding a solution for a persistent group of families at Sittingbourne (who were responsible for the vast majority of the unauthorised encampments in the Borough), was expected to see the Council making adequate provision to meet needs.
- 5.30 Potentially acceptable sites have then been assessed against a range of criteria including ownership (deliverability), utilities, highway issues, landscape impact and ease of access to local services. These assessments are a simple but objective measure of the likely suitability of each site, but are not intended to be the sole consideration in determining planning applications, which remain to be determined on their own merits. Some sites have been excluded from these assessments due to flood risk or national or international nature conservation grounds, serious landscape or heritage impact or site suitability over a range of issues.
- 5.31 The Policy produced a schedule of possible sites to address local need, and these were published in the March 2010 Gypsy and Traveller Corporate Policy Site Assessment Consultation. The result of public consultation on that schedule and the assessment scores of potential sites was considered by the Council on 7 October 2010.
- 5.32 The Local Development Framework Panel at its meeting on 7 October 2012 accepted the following recommendations:
- (1) *"That site assessments are a material consideration for the purpose of decision making subject to review when new national guidance is produced and further note the report on site scores. Also, as sites come forward as planning applications the site assessment be reviewed for currency"*
 - (2) *"That sites to be removed from the Site Assessment process in Appendix 2 be agreed."*
 - (3) *"That assessment work so far and consultation responses as evidence base for the LDF be noted."*
 - (4) *"That the Corporate Policy and Site Assessment be reviewed when new national guidance is produced."*
 - (5) *"That consideration of the Borough's pitch numbers be resolved when new national guidance is produced."*
 - (6) *"That the unapproved draft of Core Strategy policy be received for initial comments."*
- 5.33 The Council had thus been working towards meeting the anticipated requirement for provision of pitches through the publication of its Gypsy and Traveller Corporate Policy Site Assessment criteria. This has now been agreed as being a material consideration in the determination of planning applications.
- 5.34 The Corporate Policy has in my view been largely successful in guiding the provision of gypsy and traveller sites, however the 2013 GTAA identified a Borough-wide shortfall of 40 pitches. The current application site was not one considered through the formal site allocations process and therefore counts as a windfall provision

towards that shortfall. The site is within the Iwade Arable Farmlands area of the Swale Landscape Character and Biodiversity Appraisal SPD in which the guidelines are restore and create by strengthening the character of the area. Native hedges are encouraged and sensitive views from the marshes to the north should be considered.

Five year supply position

- 5.35 The PPTS has since 2012 introduced a need for Council's to maintain a rolling five year supply of sites which are in suitable locations and available immediately. This is a relatively new requirement for Council's and the Council could only start attempting to meet this requirement following the commissioning and publication of the GTAA which provided the need figure and a base date. As such, the Council put measures into place to deal with the PPTS requirements very quickly, but have only recently started down the route of trying to maintain a rolling five year supply.
- 5.36 The GTAA sets out a target of 85 pitches to be provided by the year 2031, with a suggested provision of 35 pitches in the first five years (to 2018). Three pitches were approved during the course of the GTAA's production so the final target was in fact 82 pitches. Since the publication of the GTAA and up to the end of March 2015 a total of 47 permanent pitches have been approved in Swale almost exclusively without an appeal, of which 33 pitches had been implemented. Evidence to be presented to the Local Plan examination later this year shows that at the end of March 2015 the need for pitches identified from the GTAA thus stood at 82 pitches minus the 33 permanent pitches approved and implemented, including the personal permissions granted in the interim. This reduced the need to 49 pitches which, at an annualised rate of 4.6 pitches per year (23 pitches over five years) indicated that the Council has already provided a surplus of supply of 0.8 pitches over the full five year requirement. This is calculated by taking the two year annualised requirement of 9.2 pitches from the completions so far to show a current surplus of 23.8 implemented pitches over the two year requirement and already a surplus of 0.8 approved permanent pitches over the five year need after just two years. In addition to this there are a further 13 approved but unimplemented permanent pitches as at the end of March 2015, an overall surplus of 14 pitches. These mostly comprise extensions to, or more intensive use of, existing sites and are awaiting occupation. Since then two more wholly new permanent sites have been approved at Eastchurch and Newington. Planning permission for a further two fresh pitches is awaiting only the completion of a Section 106 Agreement on a large mixed use development site at Faversham. This is a very considerable achievement and indicates the Council's positive attitude to such development in the right location. Furthermore, the likelihood of significant pitch provision as part of major new mixed use developments is a key feature of the emerging Local Plan and we will shortly see if that policy forms part of the final Plan.
- 5.37 However, irrespective of the question of the five year supply, the question of whether any approved and unoccupied sites are available to individual appellants is also normally taken in to account by Inspectors. Here, the evidence suggest that they may consider that sites approved as expansions of existing site are not readily available to appellants facing loss of their existing temporary site. This appears to confirm their decisions where the question of availability of alternative sites is crucial to their decision.

6.0 LOCAL REPRESENTATIONS

- 6.01 Five letters of support have been received which are summarised as follows;
- I believe the proposal is acceptable.
 - The land is unkempt grass that is of little agricultural value.
 - There are other gypsy sites in the area that cause no problems and there would be no issues adding another. These pitches are away from the built up areas that may otherwise have a problem with gypsies. This is a recognised and safe gypsy area.

- Site layout with grass and hedging is appropriate.
- The applicant and his family are known to be of gypsy heritage.
- The land is too small to be of any other use and there is a need for gypsy pitches in the Borough.
- The proposal allows the occupants to live their way of life.
- The proposal is well designed including native hedging and minimal hardstanding.
- The appearance will not be detrimental and is not overbearing.
- The site is close to Iwade on foot and by car.
- The fencing hides the site and the landscaping is positive. There is a hedge opposite the site and to the right which screens the land.
- There are no problems with anti-social behaviour, landscape impact, remoteness or objections from houses.

6.02 Iwade Parish Council objects for the following reasons;

“Unacceptable high density and over-development of the area. Affect on the character of the surrounding area. Scale dominating the nearest settled community. No backing of the Gypsy Council or reference from them.

Iwade Parish Council has supported the Traveller community wholeheartedly over the years but we now feel that this is now an over-development of sites in one area. We already have 11 pitches from the Junction of Basser Hill to the corner of School Lane, Near Culnells Farm and further pitches at Raspberry Hill and near Orchard Farm. The Parish Council feels it has more than contributed to the need for sites in Swale.

Relating to School Lane, in the Parish Council's letter to Swale Borough Planners dated 5th August 2011 we wrote: "the Parish Council does wish to place on record its deep concern that with a second application following this one (SW/11/0917), it will not open the floodgate to similar development and that the area of high landscape value and the strategic gap will be protected and not eaten away. We request written confirmation of this from the Borough Council." Written confirmation was never received."

7.0 CONSULTATIONS

- 7.01 The Council's Environmental Protection Manager recommends an hours of construction condition.
- 7.02 KCC Ecology is satisfied with the ecological information submitted. No great crested newt measures are required, lighting design must protect bat populations, breeding bird nesting site clearance advice is provided and ecological enhancements are suggested including native species hedgerows with bird boxes within.
- 7.03 Kent Highway Services raises no objection.
- 7.04 Kent County Council Public Rights of Way Officer raises no objection whilst noting a section of the byway would be used for vehicle access to the site. Two conditions are recommended.
- 7.05 Natural England raises no objection in relation to designated nature conservation sites. It notes the site is 564m south of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site, and 1.7km south west of the Swale SPA and

Ramsar site. These sites are also designated as sites of special scientific interest. It advises that the proposal is not necessary for the management of European sites and subject to appropriate financial contributions being made to strategic mitigation, the proposal is unlikely to have a significant effect on these sites, and can be screened out of any requirement for further assessment. The contribution should be made to the Thames Estuaries Strategic Access Management and Monitoring Strategy and the mitigation will need to be in place before the dwelling is occupied. The proposal would not damage or destroy the interest features of the SSSI and so it does not represent a constraint in determining the application.

8.0 BACKGROUND PAPERS AND PLANS

- 8.01 The application is supported by existing and proposed plans, a planning, design and access statement, an ecological scoping survey, and a statutory declaration including family history of the applicant (Mr Love).

9.0 APPRAISAL

Principle of Development

- 9.01 A key issue to be considered is the status of the applicant as a gypsy or traveller. The PPTS provides a definition of gypsies and travellers as:

“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.”

- 9.02 I have no reason to doubt the applicant’s traveller heritage (the Love family are known to officers as local travellers) nor have I been presented with any evidence to the contrary. Indeed, the letters of support received actively confirm the applicant’s gypsy status in my view. Annex 1: Glossary of the PPTS requires that in determining whether persons are gypsies and travellers for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant considerations;
- a) Whether they previously led a nomadic habit of life
 - b) The reasons for ceasing their nomadic habit of life
 - c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in that circumstances.
- 9.03 In this regard, the statutory declaration makes clear that the applicant previously led, and continues to lead, a nomadic habit of life by travelling to work across numerous farms and jobs in the south east. A list of the farms is provided and the document states *“I confirm that I am of nomadic habit and travel for work with no fixed employment.”* The applicant’s nomadic habit of life has not ceased in my view. The statutory declaration goes on to state *“Once I have a site of my own I hope to travel further for a more diverse range of work.”* For these reasons I consider that the applicant meets the definition having had regard to the relevant considerations noted above. Whilst the application does not include any correspondence from the Gypsy Council, as has been provided for other applications in the local area, I do not consider this to amount to a reason to refuse planning permission, especially given the significant weight of evidence detailed above that confirms the applicants gypsy status. For these reasons, the impact on residential amenity is acceptable in my opinion.

- 9.04 The site lies within the countryside where the principle of new residential development is normally resisted. However, it is clear that policies relating to gypsy and travellers permit countryside development as this is in line with their cultural heritage and lifestyles, and a reflection of the availability of land for such sites. The site is not located in an area at risk of flooding, nor is it located in a designated area relating to landscape. The site is within close proximity to and within the sphere of influence of the SPA, Ramsar and SSSI sites noted above but it is clear any impacts can be mitigated in the manner described in the habitat regulations assessment carried out below. The scale of the proposal taken individually and cumulatively with other nearby sites does not dominate the nearest settled community in Iwade as it has little or no impact in my opinion. There are no archaeological or heritage assets on or near the site, nor are there any known contamination issues at the site. There are no noisy adjacent land uses and there is good site and road access with no significant highway safety concerns. The site is within a reasonable travelling distance to the GP surgery in Iwade, Iwade Primary School and the shops and public transport available within Iwade village centre.
- 9.05 The site is not listed within the Gypsy and Traveller Corporate Policy or the accompanying Site Assessment Report, and therefore must be considered a windfall site in terms of contribution to the Council's pitch provision requirements. Furthermore the site scores very highly on the Council's Site Allocation Assessment Methodology (attached as appendix 1), with all but one of the indicators falling within the "fully meets criteria" range. The site is therefore appropriate, at least in terms of the Council's adopted assessment tools, for gypsy / traveller accommodation. I am therefore confident that the principle of the proposed development is acceptable under national and local policy. The revised PPTS (2015) has resulted in considerable uncertainty as it changes the planning definition of a traveller and gypsy therefore what number of required pitches have been identified. The Council has addressed this by reviewing the GTAA data and presenting a number of options for the way forward to the Inspector at the current Local Plan Inquiry. At the time of writing the Inspector has yet to consider or decide which option is appropriate. In the meantime it is considered appropriate to continue to consider applications in the context of the GTAA as originally drafted.
- 9.06 On this basis, the Council has addressed its immediate need for sites (as set out in the policy section above) and all applications must therefore be considered on their merits. If, therefore, Members consider this site acceptable, as per my recommendation, permanent planning permission should be granted. If, however, it is considered that the site is unacceptable and that permanent planning permission should be refused, the current position (noting that this changes over time, on the basis of approvals, completions, enforcement action etc) is that there is no requirement on the basis of unaddressed need for gypsy/traveller pitches to grant a temporary permission.

Visual Impact

- 9.07 The site sits on relatively high ground, but is well screened within the wider landscape by the mature trees that line the byway to the south west. There are small bushes along the southern boundary of the site that would screen it partially and there are mature trees to the north east of the site that would similarly screen it. The development would be most visible from the north west but there would be a very limited impact in this regard because any views would be at a considerable distance due to the lack of public vantage points. I do not consider that the proposed development would be prominent or intrusive when seen from such distances. Furthermore I consider that a suitable landscaping scheme (secured by condition

below) along the site boundaries would further help to screen and soften views of the site from surrounding vantage points.

- 9.08 The proposed static caravan and amenity block are of typical scale and design, and I have no serious concerns in this regard. I am therefore confident that the development has no serious impact upon the character or appearance of the area or the wider countryside, and that there is no reasonable justification for refusal of permission on such grounds.

Residential Amenity

- 9.09 The site is relatively remote from neighbouring dwellings. The only near neighbour is the gypsy site to the south west and I do not consider there would be any harm arising to residential amenity from the proposal. There are other gypsy sites to the south west which are considerably removed from the site and the impact in this regard would be acceptable.
- 9.10 I note Iwade Parish Council's concerns relating to a high density and over-development of the area, the affect on the character of the surrounding area and the scale dominating the nearest settled community. I do not consider the proposal in itself or in combination with the surrounding gypsy sites to represent development that is too dense or an over-development of the area. Nor do I consider there to be any harm to the character of the surrounding area. The scale of the proposal does not dominate the nearest settled community in Iwade in my opinion.

Highways

- 9.11 The development makes use of an existing access, and adequate parking and turning is provided within the site. I therefore have no concerns in regards to highway safety and convenience. The byway surfacing can be dealt with by condition below.

Landscaping

- 9.12 The site has adequate space to implement a robust landscaping scheme, and I have conditioned this accordingly. The landscaping will be located to the front of the fencing fronting the byway as required by KCC. Subject to such landscaping I believe that the development would not be prominent, intrusive or harmful to the character or appearance of the countryside. This accords with the Landscape Character SPD.

Other Matters

- 9.13 The site, whilst situated on a narrow, rural lane, lies approximately 2.3km from Iwade village centre by road. I therefore consider the site to be within suitable distance of the necessary services, facilities and public transport links, and believe that it should be considered a sustainable location for the purposes of providing gypsy and traveller accommodation.

Habitat Regulations Assessment

- 9.14 This HRA has been undertaken with some information provided by the applicant in the form of the Ecological Scoping Survey.

- 9.15 The application site is located approximately 564m south of the Medway Estuary and marshes SPA and Ramsar site and 1.7km south west of the Swale SPA and Ramsar site both of which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. The proposal therefore has potential to affect said site's features of interest.
- 9.16 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 61 and 62 of the Habitat Regulations require a Habitat Regulations Assessment. NE also advises that the proposal is not necessary for the management of the European sites and that subject to a financial contribution to strategic mitigation, the proposal is unlikely to have significant effects on these sites and can therefore be screened out from any requirement for further assessment. It goes on to state that when recording the HRA the Council should refer to the following information to justify its conclusions regarding the likelihood of significant effects; financial contributions should be made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG); the strategic mitigation will need to be in place before the dwelling is occupied.
- 9.17 In terms of screening for the likelihood of significant effects from the proposal on the SPA features of interest, the following considerations apply:
- Due to the scale of development there is no scope to provide on site mitigation such as an on site dog walking area or signage to prevent the primary causes of bird disturbance which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats.
 - Based on the correspondence with Natural England, I conclude that off site mitigation is required. However, the Council has taken the stance that financial contributions will not be sought on developments of this scale because of the practicalities of securing payment. In particular, the legal agreement would cost substantially more to prepare than the contribution itself. This is an illogical approach to adopt; would overburden small scale developers; and would be a poor use of Council resources. This would normally mean that the development should not be allowed to proceed, **however, NE have acknowledged that the North Kent Councils have yet to put in place the full measures necessary to achieve mitigation across the area and that questions relating to the cumulated impacts on schemes of 10 or less will need to be addressed in on-going discussions. This will lead to these matters being addressed at a later date to be agreed between NE and the Councils concerned.**
 - Developer contributions towards strategic mitigation of impacts on the features of interest of the SPA- I understand there are informal thresholds being set by other North Kent Councils of 10 dwellings or more above which developer contributions would be sought. Swale Council is of the opinion that Natural England's suggested approach of seeking developer contributions on single dwellings upwards will not be taken forward and that a threshold of 10 or more will be adopted in due course. In the interim, I need to consider the best way forward that complies with legislation, the views of Natural England, and is acceptable to officers as a common route forward. Swale Council intends to adopt a formal policy of seeking

developer contributions for larger schemes in the fullness of time and that the tariff amount will take account of and compensate for the cumulative impacts of the smaller residential schemes such as this application, on the features of interest of the SPA in order to secure the long term strategic mitigation required. **Swale Council is of the opinion that when the tariff is formulated it will encapsulate the time period when this application was determined in order that the individual and cumulative impacts of this scheme will be mitigated for.**

9.18 Whilst the individual implications of this proposal on the features of interest of the SPA will be extremely minimal in my opinion, cumulative impacts of multiple smaller residential approvals will be dealt with appropriately by the method outlined above.

9.19 For these reasons, I conclude that the proposal can be screened out of the need to progress to an Appropriate Assessment. I acknowledge that the mitigation will not be in place prior to occupation of the dwelling proposed but in the longer term the mitigation will be secured at an appropriate level, and in perpetuity.

10.0 CONCLUSION

10.01 This proposal would result in the provision of a single residential gypsy site within a good location and without giving rise to serious amenity issues or harm to the character or appearance of the countryside. The development is in accordance with local and national policy and would contribute towards the Council's pitch provision shortfall.

10.02 I therefore recommend that planning permission should be granted subject to conditions.

11.0 RECOMMENDATION – GRANT Subject to the following conditions:

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

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

- (2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 to the DCLG Planning Policy for Traveller Sites August 2015.

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

- (3) No more than one static caravan, one touring caravan, one transit caravan and one refuse compound shall be stationed on the site at any one time, as shown on drawing 294/14/02 A.

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

- (4) The site shall only be used for residential purposes and it shall not be used for any business, industrial or commercial use. In this regard no open storage of

plant, products or waste may take place on the land, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.

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

- (5) No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. The lighting design shall accord with the Bat Conservation Trusts Bats and Lighting in the UK guidance.

Reasons: In the interests of preventing light pollution and preserving rural amenity.

- (6) The area shown on the submitted plan as vehicle parking space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking of vehicles is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

- (7) The scheme of landscaping shown on the submitted plan 294/14/02, except the fencing fronting the byway which shall be located behind the landscaping, shall be carried out within 12 months of the occupation of the development. Any landscaping removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with landscaping of such size and species as may be agreed in writing with the Local Planning Authority.

Reasons: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

- (8) Prior to the commencement of development, design details and the location of 4 bird boxes to be positioned within the hedges shall be submitted to and approved in writing by the Local Planning Authority. These ecological enhancements shall be carried out within 12 months of the occupation of the development.

Reasons: In the interests of encouraging wildlife and biodiversity, and to ensure that such matters are agreed before work is commenced.

- (9) Prior to the commencement of development, details of the external finishing materials to be used on the amenity building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and to ensure that such matters are agreed before work is commenced.

- (10) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times :-
 Monday to Friday 0730 - 1800 hours, Saturdays 0830 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (11) The section of the byway that is to be surfaced as part of the proposal shall be surfaced in accordance with 'On the Right Track: surface requirements for shared use routes Good Practice Guide' (a copy of which is available on the Council's public access system under this application). The access shall be surfaced in this way prior to the occupation of the site.

Reason: To ensure the appropriate surfacing of the byway.

- (12) The development shall proceed in accordance with the following approved plan numbers; 294/14/01 A, 294/14/02 A, 294/14/03 B, 294/14/04 B and 294/14/05 A.

Reason: For the sake of clarity and in the interests of proper planning.

Informatives

All suitable bird breeding habitat should be removed from the site outside bird breeding season (March-August) or if this is not possible an ecologist must examine the site prior to works starting and if any nesting birds are recorded all works must cease until all the young have fledged.

Kent County Council Public Rights of Way Officer wishes to make the applicant aware that no furniture may be erected on or across the byway without the express consent of the Highway Authority. Should a traffic regulation order be required to temporarily close the byway to enable proposed surfacing works to be undertaken the Public Rights of Way Officer should be contacted at least 6 weeks prior to the required closure date. Planning permission confers no consent of right to disturb or divert any public right of way at any time without the express permission of the Highway Authority.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:
 Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application. In this instance the application was acceptable as submitted and no further assistance was required.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 1

Appendix 1

Gypsy and Traveller Site Allocations Assessment Methodology

Stage 1 - Is the site available?

Site Assessment Table: Stage 1 - Site availability				
Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Availability		Owner confirmed site not available, nor is likely to become available over plan period	Site availability uncertain	Willing landowner
Is the site available and deliverable?				✓

IF RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 2.

Stage 2 – Suitability/ Constraints

Site Assessment Table: Stage 2 - Suitability				
Criteria and Issues	Assessment references in addition to National Planning Policy Framework (NPPF), National Planning Guidance (NPG)	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green – Fully meets criteria
Flood Zone	Swale Strategic Flood Risk Assessment (SFRA) and Environment Agency guidance	Flood zone 3/ cannot be mitigated	Flood zone 2 or 3 but with acceptable mitigation to the satisfaction of the Council and Environment Agency	Flood zone 1
Is there a risk of flooding to residents?				✓
Landscape	Kent Downs AONB Management Plan 2008, Landscape Character and Biodiversity Appraisal SPD. Advice from Natural England and other environmental bodies	Site is within 1. a landscape designation, or will affect the setting of a designation, or 2. is within an Area of High Landscape Value with unacceptable detrimental impact or where landscape impact cannot be mitigated including cumulative impacts	Within close proximity of a designated area but, and where landscape impact may be mitigated	Outside designated area and not affecting the setting of a designation/ No impact
Impact on designations or on landscape character/quality				✓
Biodiversity	Advice from KCC Archaeology Officers, UK/ Kent/ Swale BAP, advice from Natural England and environmental bodies	Site is within or affecting international, national or locally designated sites with unacceptable detrimental impact or where impact cannot be mitigated including cumulative impacts	Site is within, close proximity to or affecting international, national or locally designated sites where impact could be mitigated	Outside of any designation and not affecting the setting of a designation/No impact
Impact on biodiversity of known protected species			✓	
Scale of site or multiple sites	Officer assessment - considering quantity of existing sites against scale and form of existing settlement/settled community and advice from service providers	Has significant dominating effect	Scale has some impact	Scale has little or no impact
Scale dominating nearest settled community				✓
Archaeology and	Heritage asset list and advice from heritage	Unacceptable detrimental impact on scheduled	Possible impact /minor impact on scheduled	Not in close proximity to Scheduled Ancient

Appendix II

APPENDIX 1

Conservation	advisors	ancient monument/other heritage asset/non designated heritage assets	ancient monument/other heritage asset/non designated heritage assets	Monument/other heritage asset/non designated heritage assets ✓
Impact on Scheduled Ancient Monument or other heritage asset/non designated heritage asset				
Contamination	Consult Land Contamination Planning guidance Document 2013 and Contaminated Land Strategy 2010	Site is contaminated and cannot be mitigated	Site is or is potentially contaminated - potential impact likely to be mitigated	No known contamination issues ✓
Unacceptable living conditions				
Noise and disturbance issues	Consult Noise and Vibration: Planning Guidance Document 2013	Site located adjacent to noisy land use – cannot be mitigated	Site located adjacent to noisy land use – potential impact likely to be mitigated or low level	No noisy adjacent land uses ✓
Unacceptable living conditions				
Site access and safety	Any transport information submitted and Kent Highways Services assessment/advice	Remote location accessed by unmade roads/ poor roads or unresolvable highway safety issue	Some access to road network and site – potentially requiring mitigation or highway safety issue and possibly capable of mitigation	Good site and road access and no significant highway safety concerns ✓
Access/Proximity to major roads and pedestrian routes				
Accessibility to facilities	Desk top review	None or few within reasonable distance	Reasonable distance to most services	All within reasonable travelling distance ✓
GP surgery, Primary School, Shops, Public Transport				

IF ANY SCORE RED THE SITE SHOULD BE DISCOUNTED AT THIS STAGE. ALL OTHER SITES SHOULD PROCEED TO STAGE 3.

Stage 3 - More detailed site suitability

Site Assessment Table: Stage 3 - Detailed suitability

Criteria and Issues	Assessment references	Red – Does not meet criteria	Amber – May be capable of meeting criteria	Green- Fully meets criteria
Topography	Site survey by Officers and landscape evidence submitted	Steep slope which makes site unsuitable	Sloping land which may require works to make site suitable for use	Level or gently sloping site ✓
Uneven or unsafe ground levels and structures				
Residential Amenity	Officers' assessment - same as housing, overlooking, disturbance from vehicle movements, loss of light, overcrowding etc	Close proximity to existing adjacent uses especially residential properties where any potential impact (light, visual, other disturbance). Has unacceptable impact which cannot be mitigated	Some impact on residential amenity – likely to be mitigated or low level	No impact on residential amenity ✓
Impact on amenity of proposed and existing residents				
Utilities	Site visit and utility providers advice	Not applicable as a reason for discounting a site	Yes – most (3 or 4)	Yes – all ✓
Electricity, Gas, Water, Drainage/ Sewers (mains or cesspit)				
Site capable of live/ work mix	Site visit/ submitted details	Not applicable as a reason for discounting a site	No or maybe	Yes ✓
Priority for sustainable				

Appendix II

APPENDIX 1

locations				
Parking	Site visit and Kent Highways Services advice	No parking/ turning and no potential to provide parking and turning space	Inadequate parking/ turning or limited potential to provide parking and turning space	Sufficient parking and turning space ✓
Sufficient parking and turning space				
Landscaping	Site visit and Swale Landscape Character and Biodiversity Assessment 2010, Planting on New Developments: A Guide for Developers	Not applicable as a reason for discounting a site	No soft landscaping/ landscaping could impact on landscape character area	Site has existing soft landscaping/ option to provide soft landscaping ✓
Sufficient landscaping for amenity/impact on landscape character				

Appendix II