

- a) **DOV/19/00955 - Change of use of land to the west of the existing park to allow an increase in the area of the site to accommodate the same number of units currently authorised at the Park, at a lower density - Land West Of Dog And Duck Leisure Park, Plucks Gutter, Stourmouth**

Reason for report: Objection from a statutory consultee (potential Secretary of State call-in)

- b) **Summary of Recommendation**

Planning permission be Granted

- c) **Planning Policies and Guidance**

Statute

The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act (2004) comprises the Dover District Council Core Strategy 2010, the saved policies from the Dover District Local Plan (2002) and the Land Allocations Local Plan (2015). Decisions on planning applications must be made in accordance with the policies of the development plan unless material considerations indicate otherwise.

Core Strategy Policies

- CP1 - The location and scale of development in the District must comply with the settlement hierarchy. Plucks Gutter is a hamlet and is not suitable for further development unless it functionally requires a rural location.
- DM1 - Development will not be permitted outside of the settlement confines, unless it is specifically justified by other development plan policies, or it functionally requires such a location, or it is ancillary to existing development or uses.
- DM11 - Development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by Development Plan policies.
- DM13 – Provision for parking should be a design led process based upon the characteristics of the site, the locality, the nature of the proposed development and its design objectives. Provision for residential development should be informed by the guidance in the Table for Residential Parking.
- DM15 - Development which would result in the loss of or adversely affect the character or appearance of the countryside will only be permitted where it is in accordance with allocations in Development Plan Documents, is justified by the needs of agriculture, is justified by the need to sustain the rural economy or it cannot be accommodated elsewhere.
- DM16 - Development that would harm the character of the landscape will only be permitted if it incorporates any necessary mitigation measure.

National Planning Policy Framework 2019 (NPPF)

- Paragraph 2 states that “planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

- Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. The objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- Paragraph 11 states that decision making should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up to date development plan or where there are no relevant development plan policies or the policies are out of date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of granting permission doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole.
- Paragraph 80-identifies that significant weight should be put on the need to support economic growth and productivity.
- Paragraph 83-supports a prosperous rural economy and states decisions should enable growth and expansion of all businesses through the conversion of existing buildings and well designed new buildings. The development of agriculture and other land based rural businesses should be enabled.
- Paragraph 85-recognises that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. It is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- Paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- Paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and landscaping, are sympathetic to local character and history and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.
- Paragraph 155 states that development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- Paragraph 156 states that local planning authorities should take advice from the Environment Agency and other relevant flood risk management bodies such as lead local flood authorities and internal drainage boards. Lead local flood authorities (unitary authorities or county councils) are responsible for managing local flood risk,

including from surface water, ground water and ordinary watercourses, and for preparing local flood risk management strategies.

- Paragraphs 157-161 cover the sequential and exception tests to be applied to development in an area at risk of flooding. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. This approach should be used in areas known to be at risk now or in the future from any form of flooding. If it is not possible for development to be located in zones with lower risk of flooding, the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.
- The application of the exception test should be informed by a site specific flood risk assessment. For this test to be passed it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere and where possible will reduce flood risk overall. Both elements of the exception test should be satisfied for development to be allocated or permitted.
- Paragraph 163 states that when determining applications local planning authorities should ensure that flood risk is not increased elsewhere. Development should only be allowed in areas at risk of flooding where it can be demonstrated that the proposal is appropriately flood resilient and resistant, incorporates sustainable drainage systems, where appropriate, any residual risk can be safely managed and safe access/escape routes are included as part of an agreed emergency plan.
- Paragraph 165 states that major development should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority and ensure an acceptable standard of operation for the lifetime of the development.

Planning Practice Guidance-Flood risks and coastal change-this guidance advises how to take account of and address the risks associated with flooding and coastal change in the planning process.

Kent Design Guide

The guide provides criteria and advice on providing well designed development.

National Design Guide

Provides guidance on objectives for good design and how this can make a positive contribution to the character of an area.

d) **Relevant Planning History**

The planning records for the use of the site as a caravan park appear to date from the 1950s and there is a long and detailed planning history with a number of applications for the stationing of caravans between the 1960s and the 1990s.

In addition, over the years various other planning applications have been submitted to extend or improve the facilities at the site, the majority of which have been approved.

No recent planning applications.

It is understood that under the Caravan Sites and Control of Development Act 1960 there are site licenses covering different parts of the site, some relating to the caravan units and the others to the chalet structures on other parts of the applicants' site. These state that land to the south and opposite the Dog & Duck shall be for caravans with the sole use for holiday purposes and shall not be used for human habitation between 1st October each year and 31st March of the following year for periods of no longer than four weeks in total in any period of 8 consecutive. The land to the west of the Dog & Duck shall be for the sole use of caravans for holiday purposes and has no restrictions with regard to opening period.

The gross density shall not exceed 50 caravans to the hectare (20 caravans to the acre) making a total of 93 caravans on the land to the west of the Dog & Duck.

e) **Consultee and Third-Party Responses**

KCC Highways

Notes that the proposal does not meet the criteria to warrant involvement from the Highway Authority. A swept path analysis has been prepared to ensure that the site could be accessed by the fire and rescue service in the event of an emergency.

An Informative is recommended to ensure the applicant obtains any necessary highway approvals.

KCC PROW-Confirmed "no comments".

Kent Wildlife Trust-no comments received within the consultation period.

Environment Agency- Initial comments:

"As outlined within the accompanying submitted Flood Risk Assessment (FRA) prepared by Enzygo (February 2019), this site lies within the area shown by our flood modelling to be at risk from flooding during a defended 1 in 20 yr fluvial flood event. This means that the land in question lies within the 'functional floodplain'. Although the information obtained to inform the FRA states that there is a lower risk in the 'undefended' scenario, the area identified as functional floodplain should always take into account the effects of defences and other flood risk management infrastructure.

Only 'water compatible' and 'essential infrastructure' should be permitted in the functional floodplain.

The NPPF and its associated technical guidance states that the 'more vulnerable' land uses (such as that proposed) should not be permitted within such areas. Whilst we appreciate that there is already a caravan site on the adjoining land, we do not consider that this should set any kind of precedent for expansion into land that has an unacceptably high risk from flooding, particularly in light of the predicted increase in the severity and frequency of flooding as a result of climate change. The change of use of this presently unoccupied parcel of land to holiday use should not be permitted.

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the flood zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance.

Reason: The Planning Practice Guidance (PPG) classifies development types according to their vulnerability to flood risk and provides guidance on which developments are

appropriate within each flood zone. This site lies within flood zone 3b functional floodplain, which is land defined by the PPG as having a very high probability of flooding.

The development is classed as 'more vulnerable' in accordance with table 2 of the flood zones and flood risk tables of the PPG on flood risk and coastal change. Tables 1 and 3 make it clear that this type of development is not compatible with this flood zone and therefore should not be permitted."

Environment Agency - further comments:

"Whilst we appreciate the efforts of the site operators and their consultants in producing a flood warning and evacuation plan for the existing site and its proposed extension, we are unable to take a different stance to that laid out in the NPPF, as per our previous response.

Whilst we appreciate the reasoning behind the application and are aware of some of the benefits of 'spreading' the existing units out, the issue lies with the NPPF's stance on the COU of land that lies within the 'functional floodplain' (FZ3b). Land within FZ3b should not be used for the stationing of caravans, irrespective of residential or holiday use. We have to recognise this restriction from a land use and planning policy point of view.

The key concern is that this land lies within Flood Zone 3b, the functional floodplain. This is an area that would be prone to flooding during a present-day 1 in 20yr flood event. According to the NPPF and its technical guidance, only 'water compatible' land uses should be permitted in this area:

If this application is classified as 'major', we reserve the right to call it in, particularly in light of the potentially dangerous precedent it may set. We cannot confirm at this stage whether we definitely would, but we would prefer that the NPPF is adhered to and that this does not become an issue".

Environment Agency - latest comments

"Our FZ3b objection is an objection in principle on national planning policy grounds; there is no requirement for the EA to provide any further technical guidance when the NPPF is so clear on allowable land use in Flood Zone 3b. Although slightly misleading in its conclusions, the data within the applicant's own FRA confirms this flood risk.

Notwithstanding the above, if your Authority decides that there is no exacerbated flood risk through the expansion of the site into this presently vacant adjacent area, and that if permission were granted, the existing risk can be managed through suitable conditional and legal covenants ever preventing the placement of additional units across the site as a whole, we wouldn't necessarily want to have it called in for further review.

We are duty-bound to raise an objection to this development, as we would be for any inappropriate development in Flood Zone 3b. However, as ever, you are within your rights to grant against our advice.

There may be questions raised later on if the site floods as to why it was given the go ahead, and we would point to our over-ruled objection. If you do decide to grant against our advice, we would recommend that it be strongly conditioned and legally agreed that no additional units (overall) are ever allowed on this site to ensure the risk is minimised."

Southern Water

"The applicant has not stated details of means of disposal of foul drainage from the site.

There is no public foul sewer in the vicinity of the site. The applicant is advised to examine alternative means of foul sewage disposal.

The Environment Agency should be consulted directly regarding the use of a private wastewater treatment works or septic tank drainage which disposes of effluent to sub-soil irrigation. The owner of the premises will need to empty and maintain the works or septic tank to ensure its long-term effectiveness.

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.”

Lead Local Flood Authority

“The planning application is supported by a Flood Risk Assessment (FRA) report (reference SHF.256.001.HY.R.01.A, dated February 2019). The FRA proposes that the site drainage will be via French drain styled systems with final discharge into an existing ditch on the southern site boundary.

No further details of the surface water drainage strategy have been submitted to enable us to assess the viability of the drainage proposal. We would therefore recommend the application is not determined until a surface water drainage strategy has been provided for consultation.

At a minimum, a drainage strategy submission must comprise:

- A drainage proposal schematic or sketch
- A clear description of key drainage features within the drainage scheme (e.g. attenuation volumes, flow control devices etc.)
- Information to support any key assumptions (e.g. impermeable areas, infiltration rates etc.)
- Supporting calculations to demonstrate the drainage system’s operation and drainage model network schematic”

Further advice has been provided following a request from the applicant about pre-commencement conditions. Conditions recommended include the submission of a sustainable surface water drainage scheme with no resultant unacceptable increased risk to controlled waters and/or ground stability and the submission of a verification report. The reasons for the conditions are to ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems and to meet the requirements of paragraph 165 of the NPPF.

Internal Drainage Board (IDB) - Initial comments

“The site of the above proposal is within the River Stour (Kent) IDB’s district and has the potential to affect IDB interests, local drainage and flood risk in particular. Therefore, any works affecting any ordinary watercourse (non-Main River) requires the IDB’s prior written consent, in accordance with the Land Drainage Act 1991 and the Board’s own byelaws.

The main watercourse flowing through the site (other than the Little Stour which is to the north and under Environment Agency control) is the Preston & Deerson Main Stream (IDB52) which is managed and maintained by the IDB. Any works within 8m of this watercourse, measured from the top of bank, requires the IDB’s prior written consent. Surface water runoff rates from the site must also not be increased as a result of this development, as this could affect local drainage and flood risk.

Unfortunately the proposed layout appears to show an access road and tree planting within the 8m byelaw margin, which would affect the Board’s ability to maintain this watercourse, and although there is reference made to SuDS no detail has been provided on how runoff would be attenuated. In light of this I must **object** to the application as proposed.

Notwithstanding the above, the eastern end of the Preston & Deerson Main Stream is already very difficult to access and changing the layout of the site, with no increase in numbers, could provide an opportunity to improve the situation. If access to this watercourse could be reinstated, providing flood risks and mitigation measures are agreed with the Environment Agency and the details of on-site SuDS agreed with KCC’s SuDS Team, I would be able to remove my objection.

IDB - Further comments

“I also note that KCC has recommended conditions in relation to SuDS and its future maintenance, which I fully support, and that the Environment Agency has maintained its objection. If the Council is minded to approve this application, it is requested that the need for Land Drainage Consent is highlighted, in accordance with Section 23 of the Land Drainage Act and the IDBs Byelaws, for any works within 8m of this watercourse measured from the top of channel bank (including any fencing, planting construction or excavation). It should be made clear that Land Drainage Consent is separate to planning permission (one doesn’t guarantee the other).

The redevelopment of the site could be an opportunity to improve access to the eastern reaches of the Preston & Deerson Stream (currently obstructed by mobile homes).”

Natural Environment Officer

I have reviewed the most recent ecological report dated June 2020. Mitigation measures appear to include:

- Sensitive working practices to avoid runoff into the nearby ditch and river network

- Habitat manipulation to discourage the use of the land by reptile species
- A bat sensitive lighting scheme to protect commuting corridors including the freshwater channels and hedgerows
- Retention of trees and hedgerows, with a 5metre buffer zone around them
- The above measure seems to be contradicted by the next line of table 6 which states that any works to trees with a low suitability to support bat roosts should only happen after further inspection of potential roost features. I'm therefore unclear about whether these trees will be retained.
- Clearance of woody vegetation outside of the bird nesting season.

Biodiversity enhancements appear to include:

- Planting of gaps and laying where necessary to promote dense A-shaped structure. Planting of additional lengths of hedgerow along the northern and western site boundaries, similar in species composition to existing (native species only).
- Installation of small hibernacula i.e. brash piles, at the base of boundary hedgerows for reptile species
- Creation of a new pond and ditch along the western boundary to provide additional aquatic habitats and SuDS feature.

Appropriate conditions are recommended to cover these matters.

Environmental Health-Confirmed "No observations".

Waste Officer

"I have looked at the planning application and can see that under point 14 removal of refuse/recycling under the Council's collection system is not being considered and the waste management facilities on the existing caravan park site will be used for this purpose. The Waste section has no further interest in the application if this is the arrangement that will be used but the Council should be checking with the owner that refuse / recycling is being removed by a licenced waste disposal company. The Waste section would be happy to discuss the removal of waste and recycling with the owner should they want to do so."

The applicants' agent has confirmed that they use a licensed waste disposal company to remove refuse from the site.

Tree & Horticultural Officer - The submitted tree survey and associated method statement and plan sufficiently address the constraints presented by the existing tree stock with a view to retaining those present. As such adherence to the Arboricultural Method Statement and Tree Protection Plan should be conditioned if the application is granted.

Parish Council- "confirmed no comments".

Third Party Representations

No representations from third parties were received within the consultation period which took place in September 2019.

In spring 2020 31 representations were received from addresses around east Kent, the majority of which simply state "Support". Reference has been made to the creation of

employment and bringing business into the area. It is stated that this is a well run site and the proposal would allow a higher standard of accommodation to be provided.

Given that the addresses of those making representations are generally not in close proximity to the application site and were received long after the application was advertised, reduced weight is given to the comments made.

f) **1. The Site and the Proposal**

- 1.1 The Dog and Duck Leisure Park is situated on the western side of the road running through Plucks Gutter, towards the northern boundary of the District. The site occupies a rural location outside any settlement confines and is adjoined by the Little Stour River to the north. The site falls within Flood Zones 2 and 3. The extreme south western corner of the site is an Area of Archaeological Potential.
- 1.2 The application relates to a small parcel of land measuring just over 2 hectares, immediately to the west of the Leisure Park. This area comprises flat grassland that forms part of a larger enclosed field. It is stated that this land formed part of a former orchard and now comprises managed grassland. It is currently available to occupants of the park for amenity purposes.
- 1.3 The land is reached via an existing vehicle gate leading from the north western corner of the existing site. There are tall mature poplar trees along the northern and south western boundaries of the site. The southern and eastern sides of the land are adjoined by drainage ditches. There are some pollarded trees along the eastern boundary with the existing site. An unmade vehicle track runs around the land and it is understood that the land is used for dog walking and amenity purposes.
- 1.4 The application is to change the use of land immediately to the west of the existing park to allow an increase in the area of the site to accommodate the same number of units currently authorised at the Park, but at a lower density. Access to the new area would be via the existing site access and a field gate in the north western corner. No operational works are proposed to the existing site.
- 1.5 It has been indicated that the existing park area is 3.26 hectares and that it is proposed to add an additional 2.02 hectares, making a total site area of 5.28 hectares. It is stated that there are currently approximately 120 units on the existing site but that there is no intention to increase the number of units. The proposal would therefore involve re-arranging the existing units around the enlarged site area. This will facilitate a reduction in density of units on the existing site to enable a higher standard of accommodation to be provided.
- 1.6 The applicant states that by incorporating the additional land this would enable them to spread the units out to achieve a lower density across the enlarged site and help to create a more open and spacious feel to the site. The layout of the existing site would also be reconfigured as units are spread out. A new amenity area would be created in the south western corner of the application site with a small pond and ecological enhancements.
- 1.7 The application has been submitted with several other supporting documents including an Ecological Assessment, Arboricultural report, Landscape and Visual Impact Assessment and Flood Risk Assessment.
- 1.8 The applicants have outlined the economic benefits of enlarging the site area, which include the provision of a higher standard of accommodation and a general improvement to the overall feel of the site. It is anticipated that these measures to upgrade the standard of accommodation will attract higher fee paying visitors to the

park as well as the nearby tourist attractions and cafes/pubs to the benefit of the local economy. The measures will also provide some job opportunities at the site and ensure its longer time viability.

- 1.9 Members will be aware that as this application has been classed as “major” (being of more than 1 hectare in size), the Environment Agency has the right to “call it in” for consideration by the Secretary of State. For any major development within flood zones 2 or 3 which has a sustained objection by the Environment Agency on flood risk grounds, the local planning authority (and applicants) should bear in mind the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, if the authority is minded to grant permission for the development. In such cases, the authority, the Environment Agency and the applicant should try to agree what changes could be made to the application that would enable the Agency to withdraw its objection. If the Agency concludes that it is unable to withdraw its objection and the authority is still minded to grant permission, the Direction requires the authority to notify the Secretary of State.

2. Main Issues

- 2.1 The main issues to consider are:

- The principle of the development
- Highway Matters
- Flood Risk Assessment
- Visual Impact
- Impact on residential amenity
- Impact on Ecology
- Other Matters

Assessment

Principle of Development

- 2.2 The starting point for decision making is Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states that regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be in accordance with the plan unless material considerations indicate otherwise.
- 2.3 In March 2017 DDC Cabinet agreed to commence the review of the Core Strategy (CS) and Land Allocation Action Plan (LALP) through the preparation of a single local plan. The decision to review the CS and LALP is an acknowledgement that in some cases the evidence base is out of date. It is also recognised that some of the detailed policies applicable to the assessment of this particular application (including Policy DM1) are to various degrees, now considered inconsistent with aspects of the NPPF and as such are out-of-date. That does not mean however that these policies automatically have no or limited weight. They remain part of the Development Plan and must therefore be the starting point for the determination of the application. Furthermore while the overall objective of a policy might be held out-of-date, greater weight can nevertheless still be applied to it depending of the nature/location of the proposal in question and the degree to which the policy (in that limited context) adheres to and is consistent with the policy approach in the NPPF. In the circumstances of this application therefore, with regard to the policies mentioned at the outset of this report, these are considered to remain generally consistent with the aims of the NPPF with regard to development associated with an existing caravan site in the countryside.

- 2.4 Policy CP1 of the Core Strategy identifies Plucks Gutter as a hamlet. The application site falls outside of any settlement confines as identified on the adopted Local Plan map. These areas are not suitable for further development unless the proposal functionally requires a rural location. Policy DM1 states that development will not be permitted on land outside the urban boundaries and rural settlement confines shown on the proposals map unless specifically justified by other development plan policies, or if it functionally requires such a location or it is ancillary to existing development or uses.
- 2.5 In this instance the Dog & Duck is a well established caravan park that has been at the site for several decades. Some of the attractions of the site are its rural location adjacent to the countryside, river and with access to the local footpath network. The proposed use will be in association with the existing business rather than a new stand alone caravan park. It could be argued therefore that the proposal functionally requires this rural location and is not in conflict with the aims of policies DM1 and CP1.
- 2.6 The application is also in accordance with paragraphs 80, 83 and 85 of the NPPF which as mentioned above outline that there is a need to support businesses including those in the rural areas beyond settlements, often in areas not well served by public transport. The proposals at the Dog & Duck site are in broad accordance with these aims.
- 2.7 The suitability of the site for the development is considered to turn on the detailed assessment of the merits of the scheme with particular regard to feedback from the Environment Agency as set out below and a consideration of its general compatibility with the requirements of the NPPF.

Highway Impacts

- 2.8 Policy DM11 states that development that would increase travel demand should be supported by an assessment of the amount and type of travel likely to be associated with the proposal. Development outside of rural or urban settlement boundaries will not be permitted unless justified by development plan policies.
- 2.9 It has been indicated that there would be no increase in the number of units at the Park and if this is the case there would be no change in the number of associated vehicle movements. As a result, and provided this situation remains the same, there would be no conflict with policy DM11.
- 2.10 Policy DM13 states that parking provision should be a design led process based upon the characteristics of the site and the locality. It is understood that parking requirements for caravan site are set out in the Caravan Site Licence. Generally, these require one space per unit with space for visitor parking. The applicant states that there is sufficient parking space for one or two cars with each plot which are all accessed off the internal roads. No new access arrangement will be required to the highway to reach the proposed area. There are no objections in terms of policy DM13.

Flood Risk Assessment

- 2.11 The starting points for considering development in a Flood Risk Area are the relevant paragraphs of the NPPF outlined above. These state that development in areas at risk of flooding should be avoided and should be directed away to areas of lowest risk (the Sequential Test) or should be made safe for its lifetime without increasing flood risk elsewhere. This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to

areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible. Within each flood zone, surface water and other sources of flooding also need to be taken into account in applying the sequential approach to the location of development.

- 2.12 Given that the application relates to the expansion in the area of an existing caravan park onto land under the applicants ownership, it is more difficult to apply the Sequential Test as it might be impractical to suggest that there are more suitable alternative sites. There is also a clear functional need for the land to be co-located with the existing site, such that the facilities of the park, and the management of the wider site, can be shared. Where it is not possible for development to be located in zones with lower risk of flooding, the Exception Test as set out in paragraph 160 of the NPPF may have to be applied. This will depend on the potential vulnerability of the site and the nature of the proposed development, in line with the Flood Risk Vulnerability Classification outlined in National Planning Guidance. Essentially, the two parts to the Exception Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 2.13 The application of the Exception Test should be informed by a site specific Flood Risk Assessment (FRA). A site specific FRA was submitted with the application which considered the risk of fluvial, tidal and surface water flooding. As mentioned above, for the Exception Test to be passed it should be demonstrated that a) the development would provide wider sustainability benefits to the community that outweigh the flood risk and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, whilst reducing flood risk overall where possible. The lifetime of a non-residential development depends on the characteristics of that development and will be assessed having regard to the characteristics of that development and the length of time it is anticipated it will be present at the site and the impact of climate change.
- 2.14 When determining an application, the Local Planning Authority should ensure that flood risk is not increased elsewhere as a result of the proposal. Development should only be permitted in areas at risk of flooding where it can be demonstrated that the proposal is a) appropriately flood resilient, b) incorporates sustainable drainage systems where appropriate, c) any residual risk can be safely managed and d) safe access/escape routes are included as part of an agreed emergency plan.
- 2.15 The Planning Practice Guidance classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate. With this in mind it is necessary to have regard to the consultation response from the Environment Agency who note that the application site is designated as Flood Zone 3 (the area of highest risk) and that the proposal involves development that is classified as “more vulnerable” than the current use (agriculture/open space) which is classed as “water compatible”. For information purposes the matter at hand is not the vulnerability of the existing site (for which a flood warning and evacuation plan should already be in place owing to its location), it is the change of use of the adjoining land to which the objection relates.
- 2.16 To summarise the flood risk issues, the EA has confirmed that the site falls within Flood Zone 3b which is the part of the floodplain that floods first even taking any flood defences into account. The defended flood zone 3b is actually the defended 1 in 20 year 5% Annual Exceedance Probability (AEP) flood extent. The AEP is the

probability of a flood of a particular magnitude or greater occurring in any given year. In this instance there is a 20% chance of the site flooding in any given year.

- 2.17 The applicants agent states that the increased flood risk at the site is a direct result of the EAs defences in the area. In response, the EA states that this is something of a moot point as it is noted that when updated climate change allowances are considered, the undefended scenario would create Class 3 "Danger for all" flood hazard level. So, whether or not the defences have made a marginal difference to present day flood levels, the impact of climate change will render the proposed development site at a significant risk from flooding, where more vulnerable development should not be permitted.
- 2.18 Based on the advice from the EA, the NPPF is clear that only water compatible development and essential infrastructure should be permitted in flood zone 3b. The proposed use as a caravan park does not fall within either of these categories and is in fact described as a "more vulnerable" land use. The EA does not consider that the existing caravan site which was formed many years ago should act as a precedent for expansion onto land that has an unacceptably high risk from flooding. This is especially important in the light of predicted increases in severity and frequency of flooding as a result of climate change.
- 2.19 The EA states that they appreciate the reasoning behind this application and the desire to spread out the units. They also appreciate the efforts of the site operators in producing a flood warning and evacuation plan for the existing site and its proposed extension. The fundamental issue however is the stance of the NPPF relating to the change of use of land that lies within the functional floodplain (FZ3b). The EA states that land within FZ3b should not be used for the stationing of caravans, irrespective of residential or holiday use.
- 2.20 In further feedback from the EA they confirm that they have an "in principle objection" having regard to the site falling within flood zone 3b. They would not necessarily call in the application for further review if the Council considers that there is no exacerbated flood risk through the expansion of the site area and the risk can be managed through suitable conditions and legal agreements preventing further units being introduced across the whole site. The EA is aware that the Council has the opportunity to grant planning permission contrary to their recommendation.
- 2.21 It is acknowledged that allowing development in Flood Risk Zone 3b, particularly a 'more vulnerable' use, should ordinarily be refused and would require a compelling case in order to be granted. In this case, the use of the existing site can accommodate 120 caravans within Flood Risk Zone 3b. The proposed development would allow 120 caravans to be located across the existing and proposed site, both of which fall within Flood Risk Zone 3b, such that there would be no increase in the number of caravans. This would need to be secured by legal agreement. Consequently, there does not appear to be a greater level of harm given that there would be no increase in the number of units and the level of risk of flooding for the existing and proposed site areas is the same. In addition, granting this permission would allow additional controls regarding flood management across the site to be secured (either by condition or legal agreement). Compared with the existing situation, it is considered that this represents a modest benefit. Regard must also be had for the potential economic benefits of the scheme, through enhancing the tourism offer and the public benefit which would result (albeit, again, this benefit is only considered to attract modest weight due to the number of caravans remaining static) This is a very balanced case and particular attention must be paid to the advice of the Environment Agency. However, on balance and as a matter of

judgement, it is considered that the particular circumstances of this case indicate that an exception to usual restraint in Flood Risk Zone 3.

Drainage Matters

- 2.22 The applicants recognise that the proposed development will increase the amount of impermeable surface at the site with a resultant increase in the level of runoff. A SuDS scheme is proposed comprising a French drain network to route water to the boundary drainage ditches. The foul sewer system and capacity are said to remain unchanged.

Visual Impact on the Landscape

- 2.23 Policy DM15 states that development which would result in the loss of or adversely affect the character of the countryside will only be permitted in certain circumstances including a need to sustain the rural economy, if it cannot be accommodated elsewhere and it would not result in the loss of ecological habitats. It is noted that the caravan site has some benefits to the rural economy and that the location is immediately adjacent to the existing park. It is not proposed to remove any boundary trees or hedges so that the existing and effective screening will ensure the character of the locality is not lost or adversely affected.
- 2.24 Policy DM16 states that development that would harm the wider character of the landscape will only be permitted if it is sited to avoid or reduce harm and incorporates any necessary mitigation measures. As mentioned above a Landscape and Visual Impact Assessment was submitted in support of the application. This identified the existing character of the landscape and the likely effects of the proposal and any residual impact on visual amenity.
- 2.25 The site falls within an area of low lying landforms separated by water courses or ditches. Whilst the adjacent countryside is open with far reaching views the application site is more self-contained being screened by mature trees and established hedging. As such the proposed siting of caravans on the adjoining land would not generally be seen from public vantage points or be obtrusive at a distance in the landscape. In terms of the impact of the proposal on the wider, generally flat land it is considered that the enlarged Park area would not have a detrimental impact on the character of the landscape.

Impact on Residential Amenity

- 2.26 The application site is not adjoined by any other permanent residential properties. There is currently landscaping along the existing western boundary of the site and this is shown as remaining which would maintain the amenities of those occupying plots on the current site. The proposals will not therefore have a detrimental impact on any residential amenities.

Impact on Ecology

- 2.27 A preliminary Ecological Appraisal has been conducted to establish ecological constraints and inform a suitable site layout. An 8m buffer has been left to the Little River Stour to the north. It is stated that there will be no impact on all mature trees or hedgerows to the site boundaries. Ecological enhancement measures will be incorporated, together with sensitive lighting. Overall, the applicants state there will be a net biodiversity gain as a result of the development.
- 2.28 The council's Senior Natural Environment Officer has noted that a series of ecological mitigation and enhancement measures have been identified, including

additional planting, the creation of a new pond, installing hibernacula for reptiles and bat sensitive lighting, and has advised that these measures should be secured by condition.

3. Conclusion

- 3.1 This application has required detailed consideration having regard to a) the proposed use and its classification in terms of its vulnerability to flooding as outlined in the Planning Practice Guidance and b) the classification of the land within which the site lies as designated by the Environment Agency and its probability of flooding. In the light of the above consideration of the Flood Risk Assessment, the key issue with this application is whether the benefits of the expansion of the size of the site outweigh the risks associated with allowing this change of use of an area of land clearly identified as being at high flood risk.
- 3.2 This application is acceptable having regard to highway and visual impact matters alone. Measures would be incorporated to enhance biodiversity at the site and further details would be needed to ensure satisfactory surface water drainage. It is recognised that the proposed enlargement of the site area will lead to an improvement in the overall feel of the caravan park and will enable the applicants to provide a higher standard of accommodation for its visitors. There will clearly be social improvements from the proposals for those staying at the site in addition to the economic benefits for the owners in terms of the possibility of attracting higher paying visitors. There could also be advantages to the local economy with visits to local businesses and tourist attractions. Some employment options will be available during the construction stage and additional jobs, such as extra gardeners would be employed. With regard to environmental aspects of the development it is recognised that the proposal would not result in harm to the visual amenity of the area or cause harm to the wider landscape.
- 3.3 Whilst it is recognised that the proposal will result in social, economic and some environmental improvements, there is an outstanding objection from the Environment Agency and the proposal remains contrary to paragraphs 160, 161 and 163 of the NPPF. The EA do not consider that they could withdraw their objection, but they do recognise that a legal agreement preventing an increase in the number of units and appropriate conditions is an option that the Council could take.
- 3.4 This application must be assessed in line with the “tilted balance” at paragraph 11 of the NPPF which in the circumstances of this case requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme. It is clear that this is a finely balanced case. It is recognised that, ordinarily, siting a caravan park in an area at high risk of flooding in Flood Zone 3b should be refused; however, it is considered that in this instance the ‘harm’ would be no greater than the existing situation whilst there are opportunities to provide a modest benefit by improvement flood management and mitigation. There would also be some modest social and economic benefits to the applicant and the wider community. On balance, it is considered that a recommendation for approval could be supported given the applicants confirmation that the number of units would not be increased and provided this is covered by a legal agreement, together with safeguarding conditions.

g) Recommendation

- I PERMISSION BE GRANTED subject to the applicants or their successors entering into a legal agreement to ensure there is no overall increase in the number of

caravan units at the enlarged site and a flood mitigation and management plan is provided for the site, and subject to the following safeguarding conditions:

(1) Time limits; (2) development in accordance with the approved plans; (3) landscaping scheme; (4) the use of caravans shall be for holiday accommodation only; (5) ecological mitigation and enhancement; (6) details of a sustainable surface water strategy, including verification of the completion of the works; (7) details of surface water infiltration.

- II Powers to be delegated to the Head of Planning, Regeneration and Development to settle any necessary legal agreement and planning conditions, in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer

H Johnson