

- a) **DOV/21/00731 – Change of use to Gypsy/Traveller Site for 8 pitches with 1 static caravan, 1 touring caravan, 2 parking spaces and dayroom per pitch (part retrospective) - Land North of Eastling Down Farm Cottages and East of Sandwich Road, Waldershare**

Reason for report: Number of contrary views (38)

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policies and Guidance**

Dover District Core Strategy (CS) Policies: DM1, DM11, DM15, DM16, DM17, DM19

DM7 – States that the Council will allocate sites to meet the needs of gypsies, travellers and travelling showpeople using assessment criteria, and will use criteria in this policy to determine planning applications

Land Allocations Local Plan (LALP)

LA1 – commits to providing a Gypsies, Travellers and Showpeople Land Allocations Local Plan - but this has been superseded by the emergence of the Draft Local Plan.

Regulation 19 Submission draft Dover District Local Plan

The Regulation 19 draft Dover District Local Plan is a material planning consideration in the determination of this planning application, although at this stage it contains limited weight. Policies SP2 and SP3 are relevant and, in particular, Policies H3 and H4 relate to new gypsy provision. The wording of the Policies does not preclude such provision within the countryside, but there are criteria that need to be met.

Gypsy and Traveller Accommodation Assessment (GTAA) 2018 (updated 2020)

The latest evidence of the LPA as set out in the GTAA and Regulation 19 Submission Plan is that for the plan period 2020 to 2040 there is a cultural need for 26 pitches and a PPTS need for 16 pitches.

5 Year Supply of Gypsy/Traveller Sites

The LPA can currently demonstrate that it has a 5 year supply of deliverable gypsy/traveller sites. The position as set out in the Regulation 19 draft Plan is that the Council can currently meet its supply needs to 2033 and has an 8.1 years' supply.

National Planning Policy Framework 2021 (NPPF)

Section 5 – seeks to deliver a sufficient supply of homes. Paragraph 62 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including for travellers). Footnote 27 refers to Planning Policy for Traveller Sites, which sets out how travellers' housing needs should be assessed.

Section 9 promotes sustainable transport. Paragraph 108 requires appropriate opportunities to promote sustainable transport modes to be taken up; safe and suitable access to the site to be achieved for all users; and any significant impacts from the development ...on highway safety, can be cost effectively mitigated to an acceptable degree.

Section 12 is relevant as the proposal should seek to achieve well-designed places ensuring that development will function well and add to the overall quality of an area, be sympathetic to local character and history and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future

users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Section 15 is relevant as it seeks to conserve and enhance the natural environment.

Paragraph 8 of the NPPF is relevant in determining whether the proposed development comprises sustainable development.

Paragraph 11 of the NPPF requires decision makers to apply a presumption in favour of sustainable development. Where the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The application site is close to a designated Ancient Woodland. Paragraph 180 of the NPPF seeks to apply the principle that a development resulting in the loss or deterioration of irreplaceable habitats (such as an ancient woodland) should be refused.

The application site is close to an Historic Park and Garden. Paragraph 199 of the NPPF seeks to give great weight to the conservation of a designated heritage asset, and Paragraph 202 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Planning Policy for Traveller Sites (2015) (PPTS):

The PPTS is a material consideration. It seeks to ensure that the needs of travellers (including gypsies) are identified and assessed to gather robust evidence to plan positively and manage development. Policy B states that LPAs should identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. Policy H provides guidance on determining planning applications for traveller sites and considers the following issues to be assessed amongst other relevant matters when considering planning applications for traveller sites:

- The existing level of local provision and need for sites.
- The availability (or lack) of alternate accommodation for the applicants.
- Other personal circumstances of the applicant
- That the locally specific criteria used to guide the allocations 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.
- The decision-maker (sic) should determine applications for sites from any travellers and not just those with local connections.

The Kent Design Guide (2005)

National Design Guide & Code (2021)

d) **Relevant Planning History**

20/00498 – Granted, for change of use of land and the erection of a stable block (to accommodate 3 horses – privately stabled).

The stable building was proposed in the northern part of the site; the approved location of the access is the same location in the current application, under determination.

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

Sutton by Dover Parish Council: Objects.

Tilmanstone Parish Council: Objects on the impact upon the Grade II Historic Park and Garden (Waldershare), the Ancient Woodland and archaeology.

Kent PROW Service: “The site is not likely to have significant impact on the adjacent public right of way therefore I have no comments to make”.

Kent Archaeology: “The site lies very close to the finding of the White Caps Barrow a prehistoric funerary monument that was excavated during the construction of the main dual carriageway to the east. Conditions are suggested.

Kent County Council: “The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.”

Southern Water: Advises that the Environment Agency be consulted in view of the private wastewater treatment works proposed, and the protected groundwater protection zone.

Environment Agency: No objections are made subject to the imposition of a planning condition to approve a foul water drainage scheme. A permit may be required for certain drainage schemes. With regard to surface water drainage, advice is provided.

Officer Comment: The advice provided could be achieved through the imposition of a suitably worded planning condition(s).

KCC Highways: Initially asked for a holding objection to be placed on file so that a plan showing appropriate visibility splays and a swept path for towing vehicles could be submitted.

Upon receipt of further information, the entrance gate is required to be set back at least 5m from the edge of the highway. Amended plans show the set back and this can be secured through a planning condition.

Woodland Trust: “The Woodland Trust lodges a holding objection to this application unless the applicant can provide the adjacent ancient woodland with a suitable buffer zone in line with Natural England’s Standing Advice.”

Officer Comment: The required Buffer Zone is stated as being at least 15 metres. Amended plans show a 15m buffer. This can be secured through a planning condition.

Gardens Trust: Initially objected on the grounds that “the site lies directly opposite a former drive to Waldershare Park, a Grade II Registered Park and Garden. The considerable changes which these proposals would bring about, adversely affects the setting of this former park entrance.”

Officer Comment: Clarification was sought from the Gardens Trust as to the detail of their objections. In particular, as the former entrance to the park is now not distinguishable and has tree and shrubbery cover, forming part of a small wood, and the entrance is not opposite the application site.

In a further response, the Gardens Trust admit that the former drive is substantially overgrown (although this is a feature that could be restored) and the 1.8m high boundary fence on the site detracts from the setting of the historic park and garden. In conclusion, the Gardens Trust seek a planning condition to remove the boundary fence within 10 years to be replaced with a mixed native hedge. Their final response is to seek all new tree planting, native hedge screening and the 15m wide fenced buffer zone in advance of the occupation of the site which would overcome their objection.

Officer Comment: The requirements of the Garden Trust can be secured through a planning condition, although as the site is currently occupied the wording of the conditions will need to reflect the current position on site.

Kent Ecological Advice Service: Sought further information with regard to the potential ecological impacts. Further information has been submitted, but the advice is now being provided by the Council's in-house officer, as follows.

Senior Natural Environment Officer: "The main body of the proposed development site is of low ecological value, with limited potential for protected species to be present and affected by the proposals. No specific species surveys are therefore necessary at this time, but the implementation of precautionary measures, as recommended in section 5.2 of the Draft Scoping Ecology Assessment, must be secured by condition, if planning permission is granted."

In addition, and with regard to the proposed buffer zone: "...the fence is fine but the buffer zone needs to be planted with native tree species and any grass subject to minimal management but ideally allowed to scrub over / naturalise, it will not be acceptable for it to be maintained as short grass. A regularly cut path through the vegetation can be maintained for access to the borehole, though this should not encourage additional access to the buffer zone. The details can be secured by condition or provided up front, but either way there needs to be a plan of the buffer zone, planting specifications and details of the approach to management..."

Heritage Officer: The Heritage Team does not need to be consulted, but Historic England should be.

Private Sector Housing: A Licence will be required under The Caravan Sites and Control of Development Act 1960.

Historic England: Does not wish to offer any comments.

Third Party Representations: At the time of writing, there have been 53 responses to the application. The proposal has been amended and so some responses might not be as relevant. However, all the responses are summarised below for completeness. There are 38 responses objecting, 14 supporting and one providing a neutral response to the application.

The objections are summarised as follows:

- Unsuitable and unsustainable location, creation of an isolated community
- Loss of a greenfield site, harm to countryside, the fence causes harm
- Poor layout, poorly planned scheme, overdevelopment, poor living environment

- The proposal lacks sufficient amenity space, landscaping, privacy for the occupiers and affordable housing
- There would be fire safety hazards, water pollution, lack of sewage capacity, light pollution
- The proposal harms highway safety, the setting of the Historic Park, trees and the Ancient Woodland, habitats, nature conservation and would adversely affect archaeology
- There is no need for the gypsy site
- The proposal is contrary to planning policy and guidance
- Precedent

A letter of objection has also been received from Councillor Manion on behalf of local residents, which raises some of the issues summarised above.

The supporting comments are summarised as follows:

- Good road access
- Not on a flood plain
- Good use of land
- The site has its own services
- The proposal helps remove illegal stopping

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

- 1.1 Prior to the submission of the application and the carrying out of the works on, and occupation of the site, the application site was undeveloped, greenfield land, with an access from Sandwich Road. The site has vegetation along its eastern boundary (with the Sandwich By-Pass), Eastling Wood to the south (which is an Ancient Woodland) and open fields opposite on the western side of Sandwich Road. Almost opposite the southern tip of the site is a former access to Waldershare Park. Waldershare Park is a Grade II Listed Park and Garden. This former access is not in current use and has become overgrown and occupied by trees and vegetation. The access is not distinguishable or readily identifiable from Sandwich Road.
- 1.2 The application site comprises a triangular parcel of land located in the open countryside between the (old) Sandwich Road and the Sandwich bypass. The topography of Sandwich Road falls as it passes the site. The closest residential properties are to the south of the site (Eastling Down Cottages) which are approximately 150m from the edge of the application site.
- 1.3 The site is approximately 0.8 miles from Whitfield, some 1.2 miles to the nearest surgery, there are 10 primary schools within 2.9 miles of the site. The nearest is some 1.2 miles (Whitfield Aspen). There are 10 secondary schools within 7 miles of the site. The nearest is 1.9 miles (Dover Christ Church Academy). There are no footways along this stretch of the Road. The 88A Stagecoach bus passes the site between Dover and Sandwich and is understood to be a week day, peak hour bus service.
- 1.4 The site is accessed via Sandwich Road where there is an existing gated field access of approximately 15m in width at the mouth, narrowing to approximately 8m further into the site. This access is concreted.
- 1.5 The site is currently occupied by 2 static caravans situated on hardcore material. There is a borehole providing water to the site, cess pit and electricity hook ups. The access, parking area and gate are in situ along with 1.8m high close boarded fencing which has been erected behind the line of the front boundary of the site, adjacent to

the highway. Some native species of planting has been provided in front of this fencing.

- 1.6 The proposal is to accommodate 8 gypsy/traveller pitches on site; each with a static caravan, tourer and dayroom. The existing access will serve the site and its parking area. The pitches are proposed to be located along the eastern boundary of the site, with the exception of two which will be located inwards, towards the centre of the site on the other side of a driveway. The driveway will have a turning head. The 'hardsurfacing' material will use 'grass' pavers (similar to grasscrete). An area in the centre of the site will function as a grassed amenity area and children's play area. Some further tree planting and screening is proposed along the front of the site, adjacent to the road. The dayrooms would have a square form with a low pitched roof. They would be timber clad. To the south of the site a 15 metre wide buffer zone is proposed, with fencing – to provide an unused area to safeguard the 'setting' of the ancient woodland.
- 1.7 The applicant has submitted additional information with regard to the site circumstances and 'best interests of the child'. In summary, these provide confirmation and some history to the applicant's gypsy and travelling background, they confirm the applicant's local connection to Dover and provide details with regard to the children. The information and these details are available to the Planning Committee to consider as confidential matters, as they contain personal and sensitive data.
- 1.8 The application site is not within an area at risk from flooding.

2. **Main Issues**

2.1 The main issues are:

- Whether the proposal is acceptable in principle
- Whether the proposal would conserve or enhance the countryside
- Impact upon the Historic Park & Garden
- Other material considerations

Principle of Development

- 2.2 This main issue is concerned with whether the proposal would be in a suitable location, with reference to the Development Plan's spatial strategy and the accessibility of services and facilities.
- 2.3 It is accepted that the current Development Plan policies DM1 and DM11 are not up to date with the NPPF – although the need to achieve sustainable development is a shared objective between policy and the NPPF. When policies that are most important for determining the application are out of date with the NPPF planning permission for sustainable development should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or, any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This is known as the 'tilted' balance'. However, if it is considered that the proposed development harms a protected area or asset and provides a clear reason for refusing the application, then this would mean that the 'tilted balance' is dis-engaged.

- 2.4 The site is situated outside the urban confines of Dover and not adjacent to a rural settlement. It is within the open countryside. The proposal is therefore in conflict with Policy DM1.
- 2.5 Policy DM11 of the Core Strategy indicates, amongst other things, that development that would generate travel will not be permitted outside the urban boundaries and rural settlement confines unless justified by development plan policies. This policy does not set a threshold level of travel beyond which the policy is triggered: the supporting text to this policy indicates how this issue should be addressed according to the travel demand generated by development proposals. In this case, there is no dispute that the increase in use of the site would generate travel, both in terms of travelling for work, school and for day-to-day living. On a straightforward reading of Policy DM11, the use of the site as a caravan site for permanent residential occupation is in conflict with Policy DM11.
- 2.6 Paragraph 105 of the NPPF identifies that different conditions can apply between rural and urban locations in how 'genuine choice' for travel should be measured. The proposed scheme represents a scale of development which is considered to be counter to Policy DM11 and Paragraph 105 of the Framework which requires the active management of patterns of growth to ensure that new development (in this case housing) is well located to allow a genuine choice.
- 2.7 Policy DM7 does not specifically preclude development in the countryside and outside of settlement boundaries, but neither does it explicitly justify a departure from the approach adopted in Policy DM1. However, if the proposal satisfies the criteria for assessment under Policy DM7, then on the basis that the proposal "is specifically justified by other development plan policies" this would meet the requirements of, and override the conflict with, Policy DM1.
- 2.8 One of the criterion to assess the proposal against in Policy DM7 (criteria i) is whether the application site is accessible to local services and facilities and by public transport. Given the distance to the nearest settlement and proximity to local services and facilities, and the limited bus service serving the site, there is no genuine, alternative choice as a means of transport (other than by private car), and the proposal is considered to be in conflict with criterion (i) of Policy DM7. For reasons set out further in this report, the remaining criteria (ii-iv) in this Policy is considered to be met or can be met.
- 2.9 Policy H (paragraphs 14 and 25) of the PPTS indicates that new traveller site development in open countryside, away from existing settlements or outside areas allocated in the development plan, should be very strictly limited. Furthermore, sites in rural areas should respect the scale of, and do not dominate, the nearest settled community, and should avoid placing undue pressure on the local infrastructure.
- 2.10 There are aspects of Policy DM7 that are out of kilter with the PPTS and the NPPF. As such, it should be given less weight in the determination of the application.
- 2.11 With reference to the draft Policy H4 of the Regulation 19 Submission, a location for new gypsy provision is not precluded from the countryside. The policy enables the Council to determine planning applications for Gypsy and Traveller windfall sites on a site-by-site basis, subject to individual circumstances and need.
- 2.12 In conclusion, it is considered that the application proposal is contrary to the spatial strategy in the development plan and in part in conflict with Policy DM7 and Policy H of the PPTS, as far as it relates to the location of the site.

- 2.13 The degree to which there is conflict with Policies DM1, DM7, DM11 and Policy H of the PPTS needs to be assessed and weighed in the balance with the benefits of the proposal and other relevant material considerations

Would the Proposal Conserve or Enhance the Countryside?

- 2.14 The application site is an open parcel of land that is bound on three sides by vegetation and by a road on its western boundary. Although open, it is physically and visually contained, and is not considered to form a contiguous swathe of open land with the fields on the other side of the road. The visual containment of the site is also due to the change in topography of the road which in turn limits views over the erected fence and landscaping planted along the front boundary. The fence has been erected set back from the highway and appears to have been erected under permitted development rights, as there is separation between it and the highway. Viewed from the Sandwich Road (A256) there are glimpses of the site through and between vegetation, in particular during the winter.
- 2.15 The site is visible across the point of access and the caravans and associated paraphernalia are more clearly seen through this gap between fencing.
- 2.16 Whilst the loss of the countryside and impact upon character and appearance would be in conflict with Policy DM15, the extent of this conflict is limited due to the limited visual impact of the scheme when seen from public vantage points.
- 2.17 Other considerations relevant to this issue include the planning permission for the development of stables on the land, fencing, access and the use of the land – this approval in effect removes the former agricultural use of the land and would have resulted in some form of visual impact upon the character and appearance of the countryside. This approval and potential fall back position carries weight and should be taken into account.
- 2.18 Another consideration, which the PPTS attaches weight to, is whether the site can be well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness. The originally submitted plans have been amended so that the pitches and development are located mostly along the eastern boundary of the site and a grassed open area is proposed between these caravans/pitches and the front boundary - to keep this part of the site open and also to provide an amenity area for children. Furthermore, the southern section of the site has an open, buffer zone that will not be used or developed. In addition, the applicant has agreed, if permission is granted, to increase the landscaping/planting along the front and rear boundaries of the site (those boundaries that face the old Sandwich Road and the A256). The landscaping provision would be a 'thickening up' along the eastern boundary to fill in gaps. The planting along the front boundary facing Sandwich Road has not matured effectively yet, but additional planting under a landscaped scheme could provide an effective screen and setting for the development.
- 2.19 Once mature and providing an effective landscaped screen the erected fence could be replaced with a more suitable type of fencing (this can be secured through a condition). This approach would also meet the requirements of the Garden Trust.
- 2.20 Whilst there is conflict with Policy DM15 and paragraph 170 of the NPPF, it is considered that the visual impact of the development on the countryside is limited and can be improved through landscaping and planning conditions.

Impact Upon the Historic Park and Garden

- 2.21 The application site is considered to be suitably separate from the historic park and garden to avoid causing harm to the Park. It is close to a former access to the Park but the proposed development is and will be some distance from this access. The access is not distinguishable and its former alignment is covered with trees and other vegetation. The Garden Trust considers that the proximity of the site to a former access affects the Park's setting. The Trust requires conditions to be imposed should the proposal be considered acceptable in other respects. By reason of the height of the trees and the established vegetation, it is assumed that the access has not been used for more than 20 years.
- 2.22 Under Policy DM16, and through the Landscape Character Assessment 2020 prepared in support of the evidence of the emerging Local Plan, the application site is not specifically mentioned. However, the document identifies the strongly rural character of the area and sparsely settled character. Particular sensitivities are identified around the landscape of Waldershare Park and "*the strong sense of tranquility and experience of dark night skies*".
- 2.23 The proposed fencing is an urban structure within the countryside, and appears to have been erected under permitted development rights. Notwithstanding, the harm identified to the significance of the Historic Park & Garden by the Gardens Trust is assessed as being less than substantial, for the above reasons. Although a further matter to weigh in the balance, it is considered that this level of harm could be addressed through the imposition of conditions as set out later in this Report. These would require the removal of the fencing in due course, the planting of native species and additional landscaping, and the provision of the buffer zone. These conditions would satisfy the objection/concerns of the Garden's Trust. It is considered that the proposal would meet the requirements of Policy DM19 and the NPPF.

Impact Upon Ancient Woodland

- 2.24 The application site does not include the Ancient Woodland to the south of the site. Notwithstanding, and following current guidance, a 15m buffer zone has been designed into the layout of the site. This would be fenced to prevent domestic activity taking place on it. Buffer Zones are often required as they can enable natural regeneration and provide habitats capable of supporting other features of the Ancient Woodland -notably breeding woodland birds and invertebrates. If left in its natural state there is more chance of the land once again being more of an integral part of the Ancient Woodland.
- 2.25 The borehole is located within this buffer zone, but other than maintenance and husbandry of the land, conditions can be imposed for the erection of a suitable boundary enclosure, the prevention of the domestic/recreational use of the land, and the provision of some biodiversity enhancements. It is considered that the proposal would meet the requirements of the NPPF.

Other Material Considerations

Need and Supply of Sites

- 2.26 It is necessary to clearly distinguish between, and deal separately with, the need for gypsy sites generally within the area and the needs of the intended occupiers of the site as individuals or as a family or group.

In terms of the general need for gypsy sites within the wider area, the LPA can demonstrate a 5 year supply of gypsy sites. Notwithstanding, meeting the (5-year)

accommodation needs of gypsies should not be considered to be a 'ceiling' or veto to allowing other sites that are considered acceptable on their planning merits. However, purely on this issue, there is not a current lack of gypsy sites within the district.

- 2.27 With regard to the proposed occupiers, there is a need supported by evidence that has been submitted for a settled base for the two families proposed to occupy the land.

Personal Circumstances

- 2.28 Submitted with the application are details of the personal circumstances of the applicant and the two families. In summary, circumstances such as health, education and local connections to Eastry and Dover apply.

Alternative Sites

- 2.29 There is a surplus of alternative sites and pitches within the district, which carries a significant weight in the determination of the application. The LPA has a development strategy in emerging policy to accommodate the needs of the gypsy and traveller communities, which has already produced an over-supply of sites and is likely to lead to a further increase in provision. However, details have been submitted by the applicant of a number of times when he and his family have not been able to have a settled base.

Previously Developed Land

- 2.30 Paragraph 26 of the PPTS explains that LPAs should attach weight to certain matters – such as the effective use of previously developed untidy or derelict land. The original site was not previously developed – it formed part of and contributed towards the open character of the area. Prior to the occupation of the site by the applicant and two of the eight caravans along with associated works, the land was described in 2020 as unkempt grassland with nettles. The planning permission for the stables to accommodate 3 horses, associated development and use of the land would have in part removed the undeveloped condition of the land. This is a fall back position.
- 2.31 Other matters set out in Paragraph 26 of the PPTS can be assessed as follows - the site is well planned and can be improved through soft landscaping, the grassed play area could help promote a healthy lifestyle for children, the site is enclosed but the intention is to encourage the planting of the boundaries of the site which would enable the erected fencing to be replaced with fencing of a more suitable nature.

Temporary Planning Permission

- 2.32 Weighing the proposal in the planning balance, and taking into consideration that the Council does not have a lack of 5 year supply of gypsy pitches and there appears to be no pending change in personal circumstances for the applicant, a temporary planning permission is not considered appropriate.

Planning Conditions

- 2.33 It is important to determine whether the harm caused by the development could be mitigated by a landscaping scheme or the imposition of planning conditions.
- 2.34 It is considered that further landscaping could help mitigate visual harm and there are other conditions that would help mitigate the impact and/or provide enhancements.

- 2.35 Conditions assessed to be necessary and appropriate in this case are set out at the end of the report.

Thanet Coast/Sandwich Bay SPA/Environmental Impact

- 2.36 The decision of the CJEU in *People Over Wind and Sweetman v Coillte Teoranta* was issued in April 2018 and is required to be taken into account. The application site falls within an area of the District where development has the potential to have a significant effect on the Thanet Coast/Sandwich Bay Special Protection Area (SPA) – within the District. In this instance, The Conservation of Habitats and Species Regulations 2017 SI 2017/1012 and article 6(3) of Directive 92/43/EEC apply.
- 2.37 Applying a pre-cautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for all new housing development within the district to have an adverse effect on the integrity of the protected SPA and Ramsar sites. Following consultation with Natural England, the identified pathway for such an adverse effect is an increase in recreational activity which causes disturbance, pre-dominantly by dog-walking, to the species which led to the designation of the sites and the integrity of the sites themselves.
- 2.38 The Thanet Coast and Sandwich Bay SPA and Ramsar Mitigation Strategy was agreed with Natural England in 2012 and is still considered to be effective in preventing or reducing the harmful effects of housing development on the SPA and Ramsar sites. For proposed housing developments in excess of 14 dwellings the agreement with Natural England is that those applications are required to contribute to the Strategy in accordance with a published schedule to mitigate against harmful effects. This mitigation comprises several elements, including monitoring and wardening.
- 2.39 The mitigation measures will ensure that the harmful effects on the designated site, caused by recreational activities from existing and new residents, from all housing developments in the district, will be effectively managed. Having regard to the proposed mitigation measures and the level of contribution currently acquired from these larger developments, it is considered that the application proposal would not have an adverse effect on the integrity of the SPA and Ramsar sites.

Other Matters

- 2.40 The site falls within a Groundwater Protection Zone (Zone 3). Policy DM17 seeks to prevent or restrict development in Zones 1 and 2. Subject to necessary conditions, as suggested through the responses from statutory consultees, the degree of impact or harm could be suitably addressed or controlled.
- 2.41 The request by Kent County Council for financial contributions towards community services can only apply for sites that exceed 0.5 hectares or for development that exceeds 10 new housing units. The proposal is for 8 new dwellings, which is under the threshold. The area of the site that could be occupied by the caravans is proposed to be conditioned to be as shown on the submitted layout drawing – meaning that the occupation of the site by the caravans will be restricted to a certain area of the site which will be under 0.5 hectares. On the other areas of the site a significant amount of open space and a buffer zone are proposed. On this basis, a contribution is not considered to be required.

3. Conclusion/Planning Balance

- 3.1 The determination of this application should be made in the planning balance. It is considered that the site is not in a sustainable location; it would rely on the use of the private car and it is not easily accessible to local services and facilities by foot cycle or public transport. The location of the site is in conflict with the objectives behind the Development Plan policies, the NPPF and the PPTS. In addition, the erection of the fence and the location of the gypsy pitches along with the residential and domestic nature and occupation of the site would run contrary to policies DM15 and DM16 and causes a degree of harm.
- 3.2 This conflict with the Development Plan is tempered by a number of factors. The site is on a bus route, and it is not in a 'remote' location. It is within a short journey to Whitfield, Eythorne and Eastry and other locations where there are schools, surgeries and local services. Furthermore, the location is not on a rural lane – it is on the (old) Sandwich Road, which is wide enough and aligned to accommodate travel movements. In addition, the recent planning permission means that there would be a degree of travel movements by private vehicle and horse box associated with the approved stable building and use of land.
- 3.3 The harm to the countryside and less than substantial harm to the Historic Park & Garden could be tempered through planning conditions, as set out. Some biodiversity enhancements could also take place.
- 3.4 Whilst there is currently a 5 year supply of gypsy pitches, it does not preclude allowing other sites if they do not cause adverse harm. In this case, the adverse harm would need to be demonstrated and evidenced to be a reason why planning permission should be withheld - under paragraph 11d of the NPPF.
- 3.5 The need for such a site and the personal circumstances that have been provided and submitted in support of the proposal carry significant weight.
- 3.6 In bringing all key considerations together within the planning balance, it is considered that the proposal is, whilst a very balanced case, acceptable subject to the planning conditions set out below.

g) **Recommendation**

- I PERMISSION BE GRANTED, subject to conditions addressing the following:
 - i) Approval of Drawings submitted
 - ii) The site shall not be occupied by any persons other than gypsies
 - iii) The static caravans hereby permitted shall be stationed on the land in the location shown on the approved Drawing
 - iv) The form, size and appearance and use of materials of the dayroom and static caravans hereby permitted shall be as shown on the Approved Drawing and submission
 - v) No more than 8 static caravans and no more than 8 touring caravans. Only the static caravans hereby approved on the site shall be occupied residentially
 - vi) Approval of details for foul and surface water drainage
 - vii) Measures to identify and protect archaeology during excavation

- viii) Set back of gate on the access and provision of visibility splays
- ix) Additional landscaping/tree planting
- x) The area of undeveloped land shown as grass on the approved Drawing shall be retained as a grassed amenity space for the site.
- xi) No additional boundary enclosures or hardstanding areas to be provided
- xii) Provision and retention of buffer zone as shown on Approved Drawing
- xiii) Provision of precautionary measures to protect ecology
- xiv) Biodiversity enhancements
- xv) Removal of front boundary fence when planting established
- xvi) No commercial activity or storage of materials or other commercial equipment shall take place or be stored on the site
- xvii) No external lighting other than motion activated lighting on the buildings or caravans

II Powers be delegated to the Head of Planning and Development to settle any necessary wording in line with the recommendation and as resolved by the Planning Committee.

Case Officer

Vic Hester