

- a) **DOV/22/01210 - Change of use of land to mixed use for the keeping of horses; residential caravan site for 4 gypsy families; stationing of 5 caravans including no more than 4 static caravans/mobile homes, with hardstanding, car parking, and erection of communal dayroom - Hollyoak, Marshborough Road, Marshborough**

Reason for report – Number of contrary views (17)

- b) **Summary of Recommendation**

Planning permission be refused.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, DM1, DM7, DM11, DM15 and DM16

Draft Dover District Local Plan: The Submission Draft Dover District Local Plan is a material planning consideration in the determination of applications. At submission stage the policies of the draft plan can be afforded some weight, depending on the nature of objections and consistency with the NPPF. The relevant policies are: PM1, H4, NE1 and NE3.

National Planning Policy Framework (NPPF) (2021): Paragraphs 8, 11, and Sections 5, 9, 12 and 15.

Dover Landscape Character Assessment (2020)

5 Year Supply of Gypsy/Traveller Sites

The LPA's position is that there is a current 9-year supply of gypsy/traveller pitches. There are 9 vacant/available pitches. This follows a May 2023 survey of sites. Cultural need and Gypsy/traveller need have been included in the supply.

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.

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

The latest evidence of the local planning authority as set out in the GTAA is that for the plan period 2020 to 2040 there is a cultural need for 26 pitches and a PPTS need for 16 pitches.

d) **Relevant Planning History**

DOV/17/001208 – Change of use of land to a mixed use as a caravan site, for the siting of one caravan for residential occupation and one touring caravan and for the keeping of horses, the construction of a driveway and hardstanding and installation of septic tank. Refused planning permission. The Planning Appeal was withdrawn after a lengthy process and corresponded with an Enforcement Notice being quashed on Appeal at the same time.

DOV/11/00484 – Stationing of a mobile home (15m by 7.5m) for permanent residential use, together with change of use of part of the land to residential garden, installation of a septic tank and creation of a driveway and parking area, together with the retention of part of the land for the keeping of horses and storage of caravan. Refused planning permission but allowed on appeal.

DOV/10/00078 - Part retrospective application for the change of use of land for the keeping of horses, erection of stables and associated hardstanding, creation of new access, closure of existing access and landscaping. Granted planning permission.

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

Representations can be found in full in the online planning file. A summary has been provided below:

Woodnesborough Parish Council – Strongly objects against the application on the basis of the application site being Grade 1 agricultural land, the proposal being large and inappropriate, the site being in an unsustainable location, there would be harm to highway safety and there are sufficient gypsy and traveller sites within the district.

Environment Agency – There is a low environmental risk.

Kent PROW – No comments to make on the application.

Southern Water – Advise that the applicant should make contact with the Environment Agency regarding the use of a private wastewater treatment works and the Council's Building Control officers should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

KCC Highways: No objections are raised.

Third party Representations:

47 representations have been received following the consultation of the planning application. 30 raise objections against and 17 support the application. A summary of the objections raised is as follows:

- There are already a sufficient number of gypsy/traveller sites in the district
- The proposal would cause harm to highway safety

- The proposal would increase the scale of the development on site and would amount to overdevelopment and an over intensive use, it would imbalance the local population, it would be out of keeping with the hamlet and would harm the open countryside
- The location of the site is not sustainable to accommodate the proposed development and there is a lack of infrastructure
- There would be an increase in harm to residential amenity and local wildlife
- Precedent is being set
- There is a breach of planning taking place on the land
- There is insufficient space for horses on the site
- The application lacks sufficient detail in how the land is being used

The representations in support of the application are summarised as follows:

- The applicant and his family have a right to live and be together on the site
- There would be no harm to highway safety
- There would be no harm to residential amenity
- The site is effectively screened and there would be no adverse impact
- The site appears in good condition

(Officer Comment – A reported breach of planning control was received in January 2023 alleging the siting of 2 caravans on the land and the storage of a shipping container. This will be subject of further investigation following the outcome of this application).

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

1.1 The application site is an irregularly shaped 0.6 hectare plot bound by Marshborough Road to the north, with gardens of residential properties to the west and east. It has an access from Marshborough Road which rises to a field gate and open fencing set back some 6m from the access. The majority of the site is on 'plateau-ed' land raised above the level of the highway. Along the northern boundary of the site is a dense hedgerow and vegetative area, which provides an effective screen to the site from the highway. As such, the site is mostly visible from public vantage points in front of and to the west of the site access and two PROWs (EE213 and EE215) opposite the site access that extend from Marshborough Road to the north, across agricultural fields. The application site is particularly visible from EE213.

1.2 The application proposal seeks to increase the number of static caravans on the site from 1 to 4, the provision of hardstanding and the erection of a day room building for shared use. The caravan site would be occupied by the applicant and his extended family. The applicant has gypsy/traveller status, and this has been accepted previously by the Council. The additional (5th) caravan is shown on the submitted plan to be a tourer caravan.

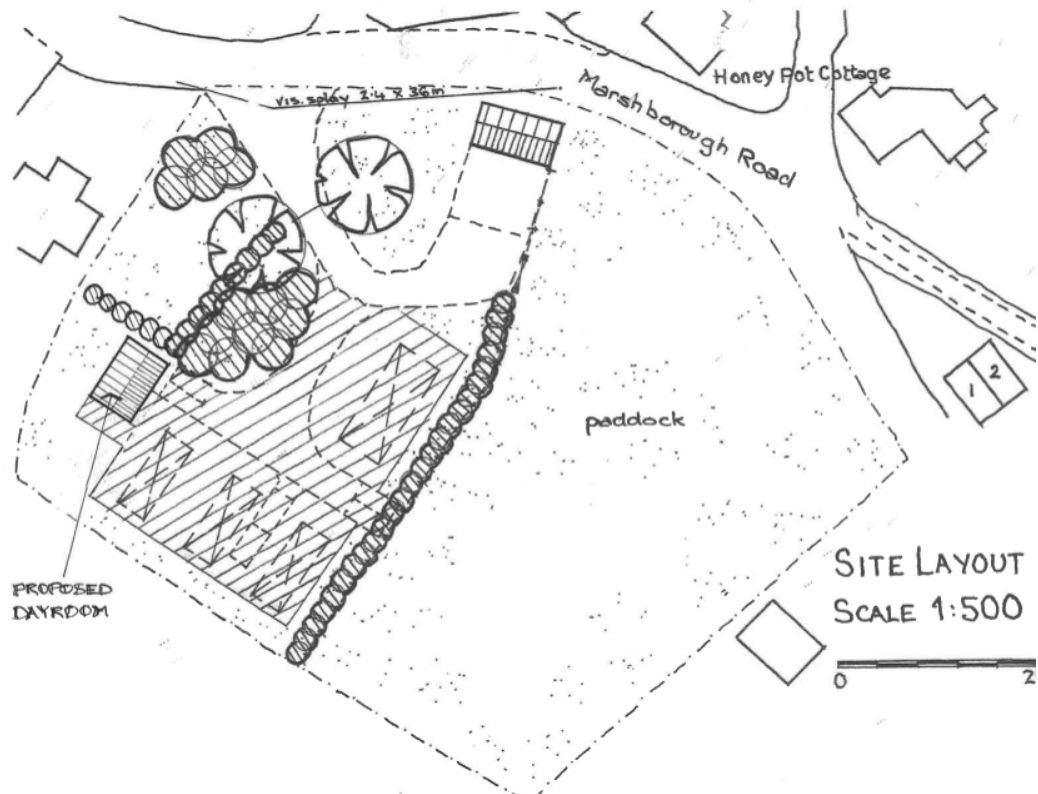


Figure 1: Block Plan

- 1.3 The siting of the static caravans will be on the western part of the site, behind and close to the access. These would be located in part on an extended hardstanding area, orientated north-south. Parking is shown to be provided on the hardstanding area, along with a space for a tourer caravan. A day room building is proposed on the western edge of this hardstanding area. This building has a rectangular form with a pitched roof. On the eastern edge of the hard surfaced area and in part along the western edge of the hard surfaced area, new hedgerow and tree planting is proposed. A paddock area will be retained on the eastern part of the site.



Figure 2: Plan and Elevation

1.4 At the time of writing this report, there are two static caravans on the site, but these are not in the location shown on the proposed Site Layout Plan. They are sited partly across the location of the eastern hedgerow, as shown on the layout plan, orientated east-west. It is assumed these two would be re-positioned should permission be granted.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- Impact on the character and appearance of the countryside
- Impact on residential amenity
- Impact on highway safety
- Impact on ecology/biodiversity
- Other matters

Assessment

Principle of Development

2.2 The Core Strategy policies DM1, DM7, DM11, DM15 and DM16 apply. Whilst Policies DM1 and DM11 are out of date/balance with the wording of the NPPF, they should still be considered relevant and carrying some weight in the outcome of the decision, as achieving a sustainable pattern and form of development is one of the central aims of the policies which, in substance, would meet the requirements set out in the NPPF. As such, significant weight but not full weight can be afforded to these. However, Policy DM7 does not require such accommodation to be provided within settlements.

- 2.3 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. Policy DM11 and Paragraph 105 of the Framework require the active management of patterns of growth to ensure that new development (in this case housing) is well located to allow a genuine choice.
- 2.4 Policies DM15 and DM16, in substance, meet the policy requirements of the NPPF and are capable of being given full weight in the decision.
- 2.5 Paragraphs 14 and 25 of the PPTS implicitly accept that sites may be located in rural areas but that their scale should not dominate the nearest settled community and should avoid placing undue pressure on infrastructure. Development in open countryside away from existing settlements or outside areas allocated in the development plan should be very strictly limited. It is considered that the total number of pitches (4) would not amount to a scale of development that would dominate the nearest settled community of Marshborough, which is understood to contain around 35 residences, nor would it place undue pressure on the local infrastructure.
- 2.6 Having less weight in the consideration of this application are the policy provisions in the Submission Draft Local Plan. Proposed Policy H4 seeks to provide the LPA's policy provision in respect of applications for gypsy and traveller windfall sites, such as this. Amongst other matters, the Policy seeks to conserve and enhance landscape character and biodiversity.
- 2.7 The previous appeal decisions have allowed the principle of the site to accommodate one caravan for a gypsy family. The development on the site has been considered within reasonable proximity of Woodnesborough and Ash, forming part of Marshborough, and has not been considered to be isolated from a rural community.
- 2.8 In conclusion, whilst there is some conflict with DM1 and DM11 of the Core Strategy, the proposal is not in conflict, in principle, with DM7, the PPTS or Paragraph 105 of the NPPF and should be supported as being in a suitably sustainable location.

Impact on Character and Appearance of Countryside

- 2.9 The 2012 Appeal decision to allow the siting of a caravan on the site, with associated garden and domestic paraphernalia is a material planning consideration in the determination of the current application, which carries significant weight. The process of the recent 2021 appeals was lengthy and it has a degree of complication and detail. In essence, the S78 Planning Appeal was withdrawn for the following reasons:
 - The Council (LPA) accepted during the appeal process that there was a valid planning permission for the siting of one caravan on the land behind the hedgerow screen which runs along the northern boundary of the site.
 - The appellant/applicant acknowledged the LPA's position that he could site one caravan on the land in that location and withdrew his appeal because the siting of the caravan proposed in the Appeal (and application) was in the more 'open' part of the site visible from the highway - against which the LPA had raised objections.

- 2.10 In the 2012 Appeal decision, although the Inspector allowed the siting of one caravan on the land, he considered the proposed siting of the caravan, in the more 'open' part of the site visible from the highway, as being harmful to the rural character and appearance of the area. In his decision he imposed Condition 8 which required details of the location of the siting of the caravan to be subsequently submitted and approved by the LPA. These details were subsequently submitted and approved by the LPA. The proposed location being the area of the site just behind the hedgerow planting that runs along the northern boundary of the site.
- 2.11 The siting of the proposed caravans under this current application comprises caravans and domestic paraphernalia on the part of the site that has been previously considered unacceptable due to its visibility from public vantage points.
- 2.12 Both the previous Inspector and the LPA have considered the proposed location of the caravans to be unacceptable. They would appear conspicuous on the land and an alien form of development within the visual context of the site and the surrounding area. Their elevated position above the highway would exacerbate their prominence within the landscape and cause harm to the rural character and appearance of the street scene and the prevailing character and appearance of the area.
- 2.13 The change from one, more discreetly located and better related pitch to its immediate built and natural context, to four pitches with their incursion into the more exposed and visible part of the land would cause harm to the existing character and beauty of the countryside. The pitches would also be facilitated by extensive areas of hardsurfacing and a building which would exacerbate the alien visual impact of the proposal, along with residential activity and other domestic paraphernalia. The more discreetly located part of the site, the eastern part, is proposed for the keeping of horses. The keeping of horses was granted permission under the 2010 application, mentioned above.
- 2.14 Consideration is given to whether landscaping could provide an effective screen for the development. Firstly, through previous attempts at planting around the access and gates, following the 2012 decision, the laurel 'whips' that were planted did not take and failed to provide an effective screen/softening of the site's context. Secondly, the location of the caravans and the associated development are visible directly behind the open part of the site which comprises the access and the field gate. Landscaping could not be provided in front of the gate as it would hinder the use of the access. As such, the proposed development would retain its incongruous visibility from public vantage points.
- 2.15 Since the 2017 application and decision, the Council has adopted the Landscape Character Assessment in 2020 (LCA), which represents a new material consideration around the issue of landscape impact. The application site falls within the "Ash Settled Horticultural Belt" landscape character area, set out within the LCA. The document highlights the characteristics and sensitivities of the area and includes reference to the openness of the landscape and long views which are vulnerable to change, the need to improve boundary treatments with native hedgerow planting to help filter views and the need to maintain the identifies of the settlements and to avoid linear development consolidation/infilling along the connecting roads.

- 2.16 The prominence, extent and visual context of the proposed development would be harmful to the rural character and appearance of the area. The proposal would therefore be in conflict with Policies DM7, DM15 and DM16 of the Core Strategy, Paragraph 26 of the PPTS, Paragraphs 130 and 174 of the NPPF and Policy H4 of the Submission Draft Local Plan.

Impact on Residential Amenity

- 2.17 Under the 2017 planning application, the impact of one single caravan on the land, in the location behind the gated access (as shown currently as the location of the proposed 4 caravans) was considered to cause harm to residential amenity. It was initially considered that this impact would mostly be upon the nearest property to the west – Inglenook. However, during the appeal process, it became evident that an objection against the impact of the development on the living conditions of the occupiers of Inglenook could not be reasonably defended as there could be mitigation put in place. In any event, the current proposal seeks to plant a hedgerow along the western part of the proposed hardsurfacing area and in front of the proposed dayroom. This again would limit the degree of impact upon the living conditions of the occupiers of Inglenook. A condition could be imposed requiring enhanced landscaping along the western boundary of the site to safeguard against overlooking from the general garden/amenity area of the site towards the adjacent property – Inglenook.
- 2.18 The proposed use of land is for residential purposes only. In essence therefore, a residential use of land would be compatible with surrounding residential uses of land, despite there being a perceived difference in some of the representations submitted in how the land would be occupied. It is not considered that the proposed occupation of the land for residential purposes would cause harm to existing residential amenity. Furthermore, the increase in the intensity of the use of the land (from 1 to 4 caravans/families) is not considered to have an 'overwhelming' impact upon the existing settled community. Neither can it be reasonably demonstrated that the increased intensity of the use of the land would cause harm to the living conditions of occupiers of nearby properties.

Impact on Highway Safety

- 2.19 The use of the access to the site and the harm to highway safety was a matter raised in the 2012 Appeal and the 2021 Appeal. The 2012 Appeal Inspector did not consider there to be harm to highway safety. During the process of the 2021 Appeal, further survey evidence and work carried out on behalf of the LPA demonstrated that the use of the access would not be unsafe or prejudicial to the conditions of highway safety, even though at the time there was hearsay and local evidence from local residents of how dangerous the existing road conditions were.
- 2.20 Kent Highways do not raise objections. There are no technical objections or other evidence that has been submitted to demonstrate that the use of the access to the site would be prejudicial to highway safety.

Ecology/Biodiversity

Habitats Regulations (2017) Regulation 63: Appropriate Assessment

- 2.21 The impacts of the development have been considered and assessed. There is also a need to consider the likely significant effects on European Sites and the

potential disturbance of birds due to increased recreational activity at Sandwich Bay and Pegwell Bay.

- 2.22 Detailed surveys at Sandwich Bay and Pegwell Bay have been carried out. However, applying a precautionary approach and with the best scientific knowledge in the field, it is not currently possible to discount the potential for housing development within the district, when considered in-combination with all other housing development within the district, to have a likely significant effect on the protected Thanet Coast and Sandwich Bay SPA and Ramsar sites.
- 2.23 Following consultation with Natural England, the identified pathway for such a likely significant effect is an increase in recreational activity which causes disturbance, predominantly by dog-walking, of the species which led to the designation of the sites and the integrity of the sites themselves. 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 sites.
- 2.24 Policy NE3 of the Submission Draft Local Plan requires that within 9km of the SPA, all new 'relevant' developments will be required to contribute towards mitigation. Whilst the policy is within an unadopted plan, the evidence base is up to date and must be taken into account. A financial contribution towards mitigating the impact of the proposed additional pitches would be required through a legal agreement to mitigate the harm to the SPA. In the absence of which, the proposal is in conflict with Policy NE3 of the Draft Local Plan.

Biodiversity Net Gain

- 2.25 The proposal does not seek to provide any ecological assessment of the site nor is there any assessment of impact upon the natural environment or biodiversity net gain. The site appears to be able to accommodate some landscaping along boundaries and on part of the site where the pitches are not proposed. As it stands, however, and in view of the loss of open land across the majority of the site, the proposal would be in conflict with Policy NE1 of the Draft Local Plan.

Other Matters

Personal Circumstances and Unmet Need

- 2.26 Little detail has been submitted with regard to the personal circumstances of the occupants of the site; health, education or other 'best interests of child'. As such, these are not given any specific weight in the assessment of the application.
- 2.27 The Council can currently identify a 5 year supply of gypsy pitches within the district and provision for meeting the identified need up to 2040 is set out in the Draft Local Plan.
- 2.28 Consideration is given to whether a temporary planning permission would be appropriate. The LPA does not have a deficit of gypsy pitches across the district and there have been no personal circumstances submitted that might be considered to justify a temporary planning permission being granted. In view of the degree of harm identified, a temporary planning permission would not be appropriate in this instance.

3. Conclusion

- 3.1 The proposal seeks to relocate an existing gypsy pitch and to provide three additional pitches on land mostly in the centre of the site. The location of the additional caravans and the dayroom in this location would result in an incongruous visual incursion into the open countryside that would cause harm to the character, beauty and appearance of the area. This has been a consideration consistent with the Appeal Inspector in 2012 and the more recent determination of the 2017 application and the recent appeal process. The applicant has known that the location of caravans in the more open part of the site has been and is considered unacceptable for the reasons stated. Mitigation in the form of landscaping could not address the degree of harm and unacceptable visual impact of the proposal.
- 3.2 The LPA can demonstrate a healthy supply of gypsy pitches to meet its currently recognised need. There are no overriding personal circumstances to outweigh the level of harm that has been identified.
- 3.3 Other elements of the scheme do not address the requirement to achieve biodiversity net gain and to mitigate the impact upon the conservation status and habitats of the Sandwich Special Protection Area.

4. Recommendation

I PERMISSION BE REFUSED for the following reasons:

- 1) The proposed development would by reason of its location, scale of development and levels of associated activity result in an incongruous visual and conspicuous incursion into the countryside that would be poorly related to and fail to contribute to and enhance the natural and local environment, causing harm to the intrinsic character and beauty of the countryside is contrary to Policies DM7, DM15 and DM16 of the Core Strategy, Policy H4 of the Draft Local Plan, Paragraph 26 of the Planning Policy for Traveller Sites and Paragraphs 130 and 174 of the National Planning Policy Framework.
- 2) In the absence of information to suggest to the contrary, the application fails to demonstrate that the proposal would minimise the impact on and provide net gains for biodiversity and the natural environment, contrary to Policy NE1 of the Draft District Local Plan and Paragraph 174 of the National Planning Policy Framework.
- 3) In the absence of securing the necessary planning obligation in respect of the Thanet Coast and Sandwich Bay SPA Mitigation and Monitoring Strategy, the proposed development is unacceptable by virtue of failing to mitigate its impact. The proposal is therefore contrary to Policy NE3 of the Submission Draft Dover District Local Plan and Paragraphs 179-180 of the NPPF.

II Powers to be delegated to the Head of Planning and Development to settle any necessary reasons for refusal in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Vic Hester