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6.8.2025
L6-J19-2020

Gravesham Borough Council
PLANNING
Civic Offices
Windmill St
Gravesend
Kent DA12 1AU

Dear Sir/ Madam

Re: DISCHARGE CONDITIONS 7, 8, 9,12,13,14,15,16,18.19

Application for a material change of use of land to Gypsy Traveller site with 3 pitches each with space for stationing of a static caravan, utility block with associated hard standing for parking, with shared septic tank and shared storage of touring caravans (part retrospective)

Mr R Webb

Land off Heron Hill Lane, Culverstone Valley, Kent DA13 0DT

LPA ref 20220106

The above application was granted on appeal on 5 July 2024 with conditions. This application is submitted to address the following conditions

7) No development of the utility buildings shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details

The proposed utility buildings are to be clad with treated wood with a light staining and felt/shingle roof with timber doors and window frames to match, and black guttering and down pipes.

8) The site shall not be occupied until the area shown for the parking of vehicles on drawing no. Plan 2 Proposed Site Layout has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those areas shall thereafter be kept available at all times for the parking of vehicles.

The ground has a free draining chalk sub surface. All the hard standing area, including the parking area, was formed from Type 1 MOT when the application was submitted. It is proposed to top this with porous open graded asphalt which is formulated to provide large voids that allow surface water to drain away.

The site is on a graded slope. The parking area, as for the site as a whole, drains naturally to the track. The tiered layout intercepts surface water and directs it to the hedgerow/ landscape strips down either side of the site. An ACO drain has been installed across the site entrance connected to soakaways to intercept any surface water. The hedgerow planted along the site frontage and grass verge on the side of the track will also act as a SUD area for any surface water that has not soaked into the site.

9) No caravans shall be brought onto site until a soft landscaping scheme for the whole site, including a timetable for implementation and completion, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- A survey of the position of trees within 10 metres of the site boundary, including their spread and root protection area and details of measures for their protection, including their canopy and root systems, throughout the construction phases of the development.
- Details of the number, density, species, heights and position of all trees, shrubs and hedges to be planted.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

A Tree Survey has been completed by Silva Arboculture Ltd. I attach a copy. A total of 6 trees were recording with the study area. None are within the site. They are all on the edge of the site or within adjoining ground. A Tree Schedule is provided at Appendix B. Two individual trees and one group of trees are recorded as Category C. This includes a Field Maple and Goat Willow on the adjoining plot, and group of Field Maple, Ash and Goat Willow in the woodland edge at the top of the slope. Three individual trees were recorded in Category U as they are Ash trees with evidence of advanced crown dieback and evidence of Ash dieback disease, which was also noted in the G1 woodland area. None of the trees are protected by any TPO. A Root Protection Area schedule is listed at Table B3. This is not applicable for the 3 Ash Trees on the site boundary which are in category U. The RPA for the Goat Willow extends into the proposed native hedgerow on the northern boundary. The RPA for the Field Maple overlaps with the existing landscape area in the SW corner of the site and regenerating landscape margin along the southern boundary. These two tree can be protected with standard specification tree protection. The RPA for the group woodland area overlaps with the proposed 3m regenerating chalk strip along the eastern boundary and can be protected by topography as this woodland is growing on higher ground.

A Tree Constraints Plan is provided at Figure 1. An Aboricultural Impact and Protection Plan is provided at Figure 2.

The study concludes that the Ancient Woodland located to the west of the site boundary will not be impact by the proposal due to the low impact of the design along with the topography, soil type and existing historic roadway which led to the adjoining farm and was until relatively recently still in use.

The Category C trees will be protected with standard specification tree protection/ existing topography.

There is limited scope within the site for enhancement tree planting due to the low , shallow soil cover, exposure of chalk bedrock close to the surface on the valley slope which is very permeable/free draining and the fact this location is subject to low rainfall and high evaporation rates in summer. It is apparent from details submitted with the planning application and from adjoining plots that most woodland is located either on the flatter plateau area to the rear of the site or on the dry valley bottom where soil has been washed down and collected.

An additional landscaped area has been provided in the SW corner of the site next to the gate where it is proposed to plant three native trees from a selection from Wild Cherry, Crab Apple, Field Maple, Whitebeam, Wayfaring Tree (Viburnum lantana), Spindle or Mountain Ash using small feathered whips 1.2-1.8m high, planted at 3m centres, staked with tree guards. These trees will be underplanted with 6 shrubs 40-60cm tall selected from a mixture of Holly, Hazel , Dog Wood, and Guelder Rose.

A hawthorn mix native hedgerow has already been planted along the site frontage (western boundary) and is now well established. This will be retained.

A native hedgerow has also been planted along the northern boundary for a distance of 60m from the track up to the woodland on the rear (eastern) boundary comprising a double staggered row approximately 30cm apart, at 45cm centres with approximately 6 plants per linear metre selected from hawthorn / Blackthorn (60%), Holly, Hazel, Hornbeam mix (40%). This has also becoming well established.

The woodland chalk bank on the upper terrace on the eastern boundary is already regenerating naturally with buddleja, thistle, nettles and other plants as listed at section 3.2 of the ecological report produced October 2023. A 3m deep strip will be retained to form a natural edge to the woodland. Given the amount of natural regeneration there is no requirement for additional planting as originally proposed .

A 1m landscape strip of land along the southern boundary of the site will also be retained as this is also regenerating naturally with native plants colonising from the adjoining overgrown plot. There is no requirement to add to this. The open ground around the Field Maple tree (T1) on the southern site boundary will be mulched with organic matter.

The submitted plans proposed additional hedgerows in front of the terraced retaining walls however, planting has failed to establish due to ground conditions and lack of moisture/ bedrock. As little will be seen of the retaining walls once mobile homes and utility blocks are sited on the terraced tiers, this planting has been removed and an additional area of planting has been provided in the SW corner of the site.

In addition to the proposed biodiversity landscaping schemes (native hedges, trees and understorey planting), additional biodiversity/ ecological enhancements will include
-log/brush piles constructed from dead and decaying wood on the site boundaries
-a bird box on the field Maple (T1) installed 2-3 m above ground level and not facing south to avoid the risk of over heating

-insect/ bug hotels on each of the utility buildings, not facing south to avoid over heating.

Timetable for Implementation-soft landscaping

ACTION	TIMING
Monitor condition of 3 Ash Trees with Ash Dieback Disease	Prior to occupation and on going
Mulch T1 Field Maple	Prior to any further works
Tree Survey	Completed
Tree planting	Prior to or within first year of occupation
New hedgerows	Prior to occupation
Chalk scrub woodland bank and southern boundary- retain and encourage regenerating planting	Prior to occupation

12) The details submitted in accordance with condition 9 above shall include:

- a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;
- a schedule in relation to every tree identified listing information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
- any proposed pruning, felling or other work;
- details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, including those for underground services, that might affect the root protection area; and,
- all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
- areas of existing landscaping to be protected from construction operations and the method of protection. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

Please refer to details for condition 9 and the Arboricultural report prepared by Silva Arboricultural Ltd. For the avoidance of doubt no alterations are proposed to existing ground levels. All underground services/ pipework were installed when the site levels and retaining structures were implemented prior to the submission of the planning application. The Ash trees with Ash Dieback Disease in woodland group G1 are on land outside the ownership/ control of the applicant. Only one retained tree (Field Maple) is sited within the application site. No further site works are proposed within the RPA and the open ground within the RPA of this tree will be mulched with well rotted organic mulch provided by a neighbour.

Mitigation is detailed at section 3.5 of the Arboricultural report.

13) No development shall commence until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- earthworks showing existing and proposed finished levels or contours;

- means of enclosure and retaining structures;
- boundary treatment[s];
- hard surfacing materials;
- lighting, floodlighting and CCTV;
- details of bin storage areas;
- an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

No change is proposed to the existing finished levels or contours as recorded on the topographic plan submitted with the planning application.

The site is already enclosed with 1m high timber post and rail fencing to the southern, northern and western site boundaries and this will be retained. The eastern boundary is formed naturally by the chalk embankment to the wooded area which has been left to naturalise with regenerating plants.

The existing retaining structures will be retained. They were constructed using concrete gravel boards supported by concrete posts, backfilled with material levelled from the site.

The hard standing has been formed using MOT grade 1 stone to be topped with open grade porous asphalt. The open ground around T1 (Field Maple) will be retained and mulched with organic matter as recommended in the Arboricultural Report. The mobile homes and utility buildings will be positioned on concrete platforms.

For lighting see condition 19.

For the avoidance of doubt no CCTV is proposed or planned.

Bins will be stored just inside the entrance gate behind the native hedgerow, and left out on the track for collection.

IMPLEMENTATION PROGRAMME

ACTION	TIMING
Landscaping scheme	Prior to or within first year of occupation
Lay porous asphalt surface	Prior to occupation
Lighting	Prior to and within first year of occupation

14) No caravan shall be occupied until a means of foul and surface water drainage has been completed in accordance with details, which shall first have been submitted and approved in writing by the local planning authority and thereafter retained.

Two Klargest low profile shallow dig 2800l Cesspools were installed when the site works were first carried out in the lower tier of the site in the NW corner next to the access track to provide ease of emptying and maintenance. At the time of the application it was understood that septic

tanks had been installed by the applicant has since clarified that they are cess tanks. The location of these was pointed out at the appeal site visit. Connecting pipework was laid prior to the reprofiling works, to connect the tanks to the three approved pitches. Given the free draining chalk sub surface the ground conditions are not suitable for a drainage field and there is no nearby watercourse to discharge waste water from a septic tank or package treatment plant to. There is no mains drainage on the track or within the vicinity of the site to which the site could connect to.

Most surface water will drain naturally into the bed rock through the open grade porous asphalt and Type 1 MOT roadstone. Surface run off will be intercepted by boundary planting and the ACO drain across the entrance gateway as noted above.

80l waterbutts will collect roof runoff from the mobile homes and utility blocks for reuse on the site.

15) No further development shall commence until a Biodiversity Gain Plan and Biodiversity Management and Monitoring Plan have been submitted to the local planning authority for written approval, as evidence that offsite compensation for loss of priority habitat woodland will be achieved as part of the proposals. The Biodiversity Gain Plan will include an updated metric calculation which details the loss of high distinctiveness priority habitat woodland from within the site and an agreement for offsite compensation to achieve 10% net gain relative to the preclearance baseline. The Biodiversity Management and Monitoring Plan shall include 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports demonstrating how habitat management is progressing towards achieving the metric objectives. The Plan will include evidence of remedial arrangements and details of any rectifying measures as required. The Biodiversity Management and Monitoring Plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

As explained in my letter of 10.6.2025 Condition 15 requires a Biodiversity Gain Plan and Biodiversity Management and Monitoring plan. As noted at para 7 of the appeal decision letter, during the hearing the Council agreed that planning conditions, as suggested by Kent CC, would be sufficient to overcome the third reason for refusal relating to biodiversity net gain and the effect on the ancient woodland. However these conditions were not agreed by the Appellant and the Inspector did not question the recommendations from Kent CC. It is appreciated that at the time this new requirement was all very new to everyone and guidance in the Planning Practice Guidance on BNG had only just been published.

The planning application the subject of this appeal sought consent on a part retrospective basis. Most of the site preparation and ground works had been completed prior to the application and subsequent appeal hearing in June 2024. It is unclear from reading the comments from Clair Thackray of KCC which are dated 1.3.2024 whether she was aware of the recently published PPG dated 14.2.2024 and implications for retrospective applications. According to the very clear guidance at para 003 of PPG biodiversity net gain only commenced for planning permissions granted in respect to applications made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain. The application the subject of this appeal decision was submitted on 3.2.2022 and validated on 9.6.2022 ie 2 years

prior to the commencement date for BNG. There is no indication that this was considered by KCC in their comments. The Planning Practice Guidance for BNG makes clear that BNG does not apply to retrospective planning applications. The reasons for this are because BNG is a pre commencement condition. Once planning permission has been granted a BNG plan must be approved by the LPA before commencement of development. That is not possible if permission is sought retrospectively as in this case. The application description described it as part-retrospective. Planning statute does not differentiate between applications that are retrospective/ part retrospective. A person who has undertaken unauthorised development can obtain planning permission after the event ie by submitting a retrospective planning application under s73A of the TCPA 1990.

When permission was sought the site had been reprofiled and recontoured as per the submitted topographic plan with the installation of retaining structures and a septic tank. Sub surface pipework/ducting for electric, water, waste water had also been completed prior to the installation of the retaining structures and slope reprofiling. Most of the site had been laid to hard standing. Much of the soft landscaping had also been implemented.

Conditions 16,18 and 19 all refer to the fact the no further development shall commence until further details are submitted. It was clearly acknowledged by the Inspector that permission was sought retrospectively.

The above does not mean that biodiversity is not a relevant material consideration or that any harm to or loss of biodiversity should not be reasonably mitigated where appropriate. However as the Council is still reliant on the Local Plan Core Strategy 2014 and Gravesham Local Plan 1st Review 1994 and as neither of these documents have a policy for Biodiversity Net Gain, there appears to be no development plan policy requirement for BNG either.

As you will recall, the appeal site is not designated a priority habitat and was not covered by a TPO. The baseline habitat was not of high ecological value as can be seen from the adjoining and nearby plots. A BNG metric is an unnecessary requirement. As the Council confirmed at the hearing, there was nothing to preclude or prevent any owner from clearing all the vegetation on the site as has occurred on other plots of land nearby.

For the above reasons it is considered that the soft landscaping and biodiversity benefits outlined for Condition 9 above will provide adequate mitigation for the development proposed and the requirements of Condition 15 are unreasonable and ignore the clear advice in PPG. I explained all this in my letter of 10.5.2025. It is most regrettable that no one from the Council could be bothered to respond to my concerns. BNG and putting ecology into a spreadsheet is a complete nonsense for small developments especially where the baseline habitat is not of high ecological value as in this case and the Council can not prevent landowners from clearing all surface vegetation.

16) No further development shall commence until an ancient woodland mitigation plan has been submitted to the local planning authority for written approval. The plan will include details of an arboricultural impact assessment undertaken by a suitably qualified person, and will detail measures to protect the Root Protection Area of ancient woodland trees and to avoid increased

recreation impacts on the retained woodland areas. The approved Plan will be implemented and retained thereafter.

As the Arboricultural Report concludes, there is no requirement for an ancient woodland mitigation plan due to the low impact of the proposed development, the topography, soil type and existing historic roadway separating the site from the few trees within the closest part of the Ancient Woodland on the west side of the access track. For the avoidance of doubt no work is proposed to the access track off Heron Hill Lane.

18) No further development shall commence until a Landscaping Plan for Biodiversity has been submitted to the local planning authority for written approval. The Plan will include details of a native species planting scheme including the reinstatement of the woodland bank along the eastern site boundary, planting of a 3m wide strip of chalk scrub along the northern boundary, native tree planting and native hedgerows in accordance with the preliminary ecology report (R. Webb, May 2022) and planning statement (Heine, February 2022). The Plan will include a work schedule detailing management proposals for all areas of landscaping. All measures will be implemented as approved and retained thereafter.

Landscaping proposals are as detailed for Condition 9. For the avoidance of doubt and by way of a correction to the 2022 planning statement submitted with the application, it should be noted that the plans indicate a new hedgerow on the northern (not eastern boundary) and 3m wide chalk scrub on the eastern (not northern) boundary.

Work schedule for management/maintenance proposals of soft landscaping

Action	Management/ maintenance
Tree planting in line with Arboriculturalist/ ecologist recommendations	Prepare planting holes in advance of planting Soak trees prior to planting Water as required to ensure full depth of topsoil is wet for all of soft landscape areas Mulch after planting Protect planting with tree guards Keep base of tree weed free for years 1-3 until established Stake when planted and adjust tie/ reposition as required to prevent chaffing Remove stakes/ ties two years after planting. Fill holes with lightly compacted soil Crown prune young trees up to 4m high during late winter/ early spring to reduce side branches by one third and remove any dead branches
Hedges-new and existing planting	Prepare ground for planting adding mulch and top soil as required During and following establishment of planting ensure sufficient water is applied to maintain healthy growth.

	Protect plants with biodegradable rabbit guards Maintain weed free surround to hedge base Prune and reshape to promote good form and bushy growth to a height of no less than 2 metres outside bird nesting season ie September to February Infill gaps with appropriate native species
Chalk bank reinstatement on upper Terrace	Retain semi natural habitat with naturally regenerating windblown species Avoid trampling within this area and ensure it is kept free from litter/ debris Trim regenerating shrubs lightly to encourage bushy growth Remove weeds and non native invasive species.
Amenity planting in SW corner	Prepare ground for planting, adding top soil if required, and remove all weeds. Water plants well before and after planting Mulch new planting after watering with good organic matter and apply mulch (eg bark chippings) in spring to encourage water retention Water new planting at least weekly to ensure top soil is well soaked and through years 1-2 to ensure healthy plants Keep cultivated area clear of weeds and litter. Lightly fork over planting bed in Spring and apply general fertiliser. Prune plants to maintain good shape, healthy and vigorous growth. Thin out crowded and crossing shoots weak growth. Winter berry bearing plants shall not be pruned until March. Control pests and diseases
Other wildlife measures (bird boxes, brash/ log piles, insect/bug hotels)	Prior to first occupation

19) No further development shall commence until a lighting plan for biodiversity is submitted to, and approved in writing by, the local planning authority. Lighting will be designed in accordance with the Bat Conservation Trust's 'Guidance Note 8: Bats and Artificial Lighting 08/23'. The Plan will show the type and locations of proposed external lighting, as well as the expected light spill in lux levels on both vertical and horizontal planes, to demonstrate that areas to be lit will not adversely impact biodiversity. This will include details of any measures to reduce impacts from emitted internal lighting, such as cowls, recessed lighting or glazing treatments. All lighting will

be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter. No additional lighting will be installed without prior written approval from the local planning authority.

In order to minimise impacts from artificial lighting upon wildlife (notably bat commuting and foraging habitat), whilst still providing a safe and practical solution for site occupants, external lighting will be limited to small domestic units supplied with the mobile homes (over which the occupant has no control), small domestic lights to the doorway of the utility blocks. on the gateposts of the site entrance and end panel of the concrete posts at each level of the site. Light levels will be as low as possible and the number of fixtures will be kept to the minimum required. No high level/ flood lighting will be installed. No light will be positioned at the lowest reasonable height and no more than 2.5m above ground level. Lights on the utility buildings will be positioned below the eaves with a maximum of one light per external doorway. No lighting will illuminate any trees, hedgerows or other sensitive ecological features.

External lighting on the utility , gateposts and end panels of terracing will comprise fixed downlights which cannot be tilted to minimise horizontal spillage. They will direct light produced by the lighting unit to the ground with a 0% upward light ration. Units will be fitted with low wattage LED bulbs (5w) with a warm white colour temperature (not exceeding 2700k). They will not include UV elements or compact fluorescent sources.

External lights on the utility blocks and gate posts will be controlled by PIR motion sensors set to a short timer (maximum 1 minute) to minimise the lit time from dusk to dawn.

I trust the above information addresses the conditions to the satisfaction of the Council and look forward to receiving your decision.

Yours Sincerely

Mrs A Heine

Enc
Silva Arboricultural Report
Landscape plan