

Delegated Report

Planning Application

Planning Application No: 20230724

Location: Land Off Heron Hill Lane, Meopham, Gravesend, Kent

Description: Material change of use of land to Gypsy Traveller site with 1no pitch each with space for stationing of a static caravan, utility block with associated hard standing for parking, with shared septic tank and space for associated storage of touring caravans.

Applicant: Mr F Webb

Site Visit Date: Various, site notice 6 September 2023

Submitted Documents/Plans

Planning Statement
SUDs Statement
Land Levels Plan
Cross Section Drawing
Drawing no. T1068-001 (site location plan)
Drawing no. T1068-002 rev B (proposed block plan)
Drawing 3 (proposed utility block)

Relevant Planning History

No relevant history for this plot.

The adjacent plot:

20220106	Application for change of use of land to Gypsy Traveller site with 3 pitches, each with space for stationing of a mobile home, utility block with associated hard standing for parking, with shared septic tank and space for associated storage of touring caravans and retention of works of woodland/scrub clearance and re-profiling and re-contouring on the site and retention of retaining structures.	Refused	04.07.2023
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Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development

- CS02 – Scale & Distribution of Development
- CS11 - Transport
- CS12 – Green Infrastructure
- CS17 – Provision of Traveller Sites
- CS18 – Climate Change
- CS19 - Development & Design Principles

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network
- T4 – Development outside the Built-Up Area
- T5 – New Access onto Highway Network

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Section 9 – Promoting Sustainable Transport
- Section 12 – Achieving well-designed places
- Section 13 – Protecting Green Belt land
- Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and Enhancing the Historic Environment

Planning Policy for Traveller Sites (PPTS), August 2015 Department for Communities and Local Government

The Planning Policy for Traveller Sites (PPTS) sets out the Government's planning policy for traveller sites. It applies to those Travellers who meet the planning definition set out in annex 1 of the PPTS, as follows:

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

The 2015 PPTS updated the 2012 planning definition by excluding those Travellers who have ceased to travel permanently. The government's intention is that their needs should now be addressed as part of general housing needs.

It should be noted that there has been a recent Court of Appeal judgement which examined a planning inspector's reliance on the new definition in the 2015 PPTS (Smith v Secretary of State for Levelling Up, Housing & Communities & Anor [2022] EWCA Civ 1391 (31 October 2022) (baillii.org)). The Secretary of State conceded that the new definition indirectly discriminated against elderly and disabled Travellers who had ceased to travel due to old age or illness but who lived or wanted to live in a caravan; but argued that the discrimination was justified. This was rejected by the Court of Appeal, who subsequently quashed the

planning inspector's decision and remitted the case back to the Secretary of State for redetermination. The implications of this decision for this appeal is a material consideration which will be taken into account in determining this application.

The government's aim through the PPTS is to ensure that local planning authorities make their own assessment of need for Traveller sites, and, working collaboratively, prepare fair and effective strategies for addressing that need through the identification and delivery of sites over a reasonable timescale. Through plan making and decision taking, the Green Belt should be protected from inappropriate development, and due regard should be given to the protection of local amenity and local environment.

The key paragraphs of the guidance relevant to this proposal are as follows:

Policy B – Planning for Traveller sites

Policy C - Sites in rural areas and the countryside

Policy E – Traveller sites in the Green Belt

Policy H – Determining planning applications for Traveller sites

Supplementary Planning Guidance and other Documents

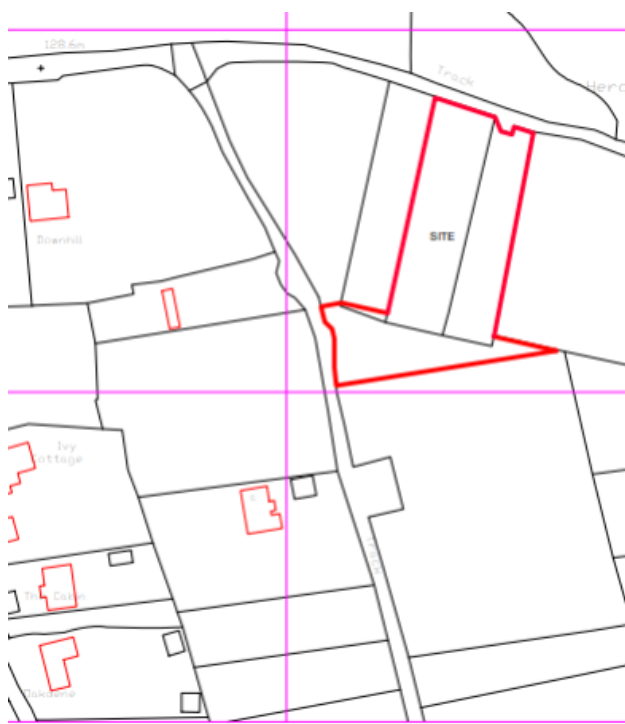
GBC has published Supplementary Planning Documents and Guidance in support of its development plan policies that are material considerations in determining the application.

The following documents are relevant to the consideration of this development:

- Kent Design Guide (SPG 5 published December 2005, adopted July 2006)
- Kent Vehicle Parking Standards (SPG 4 published in 2003 and adopted in 2006)
- Gravesham Landscape Character Assessment, May 2009.
- Gravesham Landscape Capacity and Sensitivity Study (2020)
- Gypsy and Traveller Accommodation Assessment (GTAA) Final Report, October 2018
- Gypsy and Traveller Five Year Land Supply Statement (June 2023)

Other Material considerations

Heron Hill Appeal (APP/K2230/W/19/3223958 – appendix 1)



It is noted and acknowledged that the application site is very near to a site of a similar development that was proposed in 2018 at Heron Hill Lane, about 120m to the north (see red line plan opposite)

That application (ref 20180163) was for change of use of land to a Gypsy Traveller site with 5 pitches each with space for stationing of a static caravan, touring caravan (subsequently amended to 2 touring caravans), and utility block, with associated hard standing, gabion retaining wall and shared package sewage treatment.

It had a site area of 0.2 hectares (0.5 acres) and was a heavily wooded site. There was some evidence it once contained a small chalet, but no signs remained.

Like the current application site, it too was within the metropolitan Green Belt and Happy Valley Local Wildlife Site.

The application was refused by the Borough Council on 07 December 2018 on grounds that:

- 1. The site lies in the Green Belt outside the built-up confines of the settlement of Culverstone Green. The proposal is inappropriate development and will introduce a significant level of built development, hard surfacing, retaining structures and mobile structures onto a previously undeveloped and visually prominent site. Given the scale and spread of the proposed development and its elevated location, will harm the openness of the Green Belt and will result in encroachment of built development into the countryside. In the absence of any very special circumstances to outweigh the degree of harm caused to the Green Belt and other identified harm the proposal is contrary to the requirements set out in Section 16 (paragraph 146 (e) of the National Planning Policy Framework 2018, the Planning Policy for Travellers Sites 2012 and policies CS01 (Sustainable Development) and CS02 (Scale and Spatial Distribution of Development) of the Gravesham Local Plan Core Strategy (2014).*
- 2. The site lies in the Harvel Downs Landscape Character Area The proposal, by virtue of its location, nature, scale and spread, combined with the specific characteristics of the site and the immediate surroundings, in particular the woodland surroundings, the topography, its locally prominent location and proximity to a public byway, footpath and unmade track, will cause harm to the local rural landscape character and detract from the rural and visual amenities of the area, contrary to policies CS12 (Green Infrastructure) , CS17 (Traveller Sites) and CS19 (Development and Design principles) of the Gravesham Core Strategy (2014) which seek to ensure that new development conserves and enhances the natural environment and landscape character in line with the Gravesham Landscape character Assessment and integrates well into the surrounding area.*
- 3. The proposal lies within the Happy Valley Local Wildlife Site where woodland habitat has been removed and the site regraded in advance of the proposed development. The proposal fails to include any mitigation planting or landscaping details to offset the habitat loss and will introduce residential activity in close proximity to the adjoining ancient woodland. The proposal will therefore fail to conserve or enhance the biodiversity value of the Local Wildlife Site in line with Core Strategy policy CS12 (Green Infrastructure)*
- 4. The proposal will introduce residential development into the rural area, outside the built-up confines of the settlement of Culverstone Green. In view of the distance to the facilities in Culverstone Green, the prevailing highway conditions and the lack of public transport, the future occupants of the site would rely heavily on a private car for most day-to-day journeys with the consequential impact of pollution on the local environment, limited benefits to local services, and reduced opportunities to encourage social cohesion. As such this is considered to be an inappropriate location for a Traveller site, and the proposal is contrary to CS01 (Sustainable Development), CS02 (Scale and Distribution of Development), CS17 (Provision of Traveller Sites) and CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy (2014) which seeks to locate new development in sustainable locations, to provide access to local services and facilities, thus reducing car dependency and encouraging community cohesion.*
- 5. Heron Hill Lane is a single width rural lane which lacks formal passing places, pedestrian footways and street lighting and has poor forward visibility in places. The section that provides access of plots 1 to 4, is*

particularly narrow and unmade, and insufficient information has been submitted to demonstrate a safe access can be formed. The proposal will introduce additional traffic onto a country lane and unmade track which is unsuitable for larger vehicles, which will adversely impacts on highway safety for existing vehicles and other user, contrary to Policy CS11 of the Gravesham Local Plan Core Strategy (2014) and saved policy T1 and T5 of the Gravesham Local Plan First Review (1994), which seeks to ensure that all new development is adequately served by the highway network and new accesses do not cause a danger to highway safety.

6. The proposed site layout is considered to provide a cramped form of development which fails to provide a safe environment, adequate privacy or amenity space for future occupants, particularly of plots 1 to 4. Insufficient space is provided to accommodate larger vehicles, visitor parking or turning space onsite which will lead to informal parking on the nearby unmade road and pressure for the creation of informal parking areas, detracting from the rural and visual amenities of the area, contrary to policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy (2014) which seeks to ensure that the residential amenity of existing and proposed residents is safeguarded and adequate onsite parking is available.

Following a subsequent appeal (the 'Heron Hill' appeal reference APP/K2230/W/19/3223958– appendix 1) against the refusal and a local hearing held on 11 and 12 February 2020 a Planning Inspector ALLOWED the appeal on 31 March 2020 subject to various planning conditions.

In the overall planning balance, the Inspector concluded:

The proposal would be inappropriate development in the Green Belt and as such would cause substantial harm. It would also cause considerable harm to openness and limited harm to the Green Belt purpose of safeguarding the countryside from encroachment. These factors attract substantial weight against the proposal. I have also found that there would be harm to the character and appearance of the area and biodiversity on the appeal site, to which I attach moderate and limited to moderate weight respectively.

Factors which weigh in favour of the proposal include the unmet need for traveller sites, the lack of alternative sites, the failure to plan for the needs of gypsies and travellers and the absence of five-year supply. All of these merit significant weight.

A settled base would bring health benefits to a child with a rare and life-threatening illness. In the context of the best needs of the child, which is a primary consideration, this is a factor to which I attribute very substantial weight.

The proposal would facilitate access to school and healthcare for the children. Given the significant number of children involved, and the importance of the best needs of the child, this is a matter of substantial weight...

...The case against the proposal involves harm to character and appearance and biodiversity, as well as loss of openness, effect on a Green Belt purpose and inappropriate development in the Green Belt. However, there are a range of other considerations which, when added together, strongly favour the granting of planning permission. Looking at the case as a whole, and balancing the factors for and against the proposal, overall I conclude that the identified harm is clearly outweighed by the other considerations – these being unmet need, the lack of alternative sites, policy failure to plan for traveller needs or to demonstrate five year supply, and the personal circumstances of the proposed occupants. As such I consider in this case the very special circumstances exist to justify the proposal, and it therefore accords with paragraph 144 of the NPPF.

The circumstances of this appeal decision have some similarities not least to the type of development, the proximity and character of the location and the planning policy implications and therefore is a material consideration. Nevertheless, the current planning application has to be assessed on its individual planning merits having regard to the development plan and all material planning considerations.

Consultations, Publicity and Representations

Consultees

KCC Biodiversity (comments from the site adjacent to this one from application 20220106)

The ecology document states that the site has been cleared of its trees, which was most likely a 'priority habitat' lowland mixed deciduous woodland (as listed under S41 of the NERC Act 2006).

It is possible that protected species legislation has been breached in the clearance of this site, however, this cannot be established now clearance has happened. Additionally, it is unclear if the surveyor/author is a qualified and experienced ecologist, but the ecology report appears to have not been produced in accordance with CIEEM guidance and does not address all ecological concerns. These are detailed below.

Biodiversity and Habitats

Under section 40 of the NERC Act (2006), paragraph 174 of the NPPF (2023) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2023, the implementation of enhancements for biodiversity should be encouraged.

We also highlight paragraph 26 of the government's advice on the natural environment; "It may also be relevant to consider whether any deliberate harm to this biodiversity value has taken place in the recent past, and if so whether there are grounds for this to be discounted in assessing the underlying value of the site (and so whether a proposal would achieve a genuine gain)".

Additionally, within Schedule 14 of the Environment Act, which sets out the biodiversity gain condition for development, measures are included that allow planning authorities to recognise any habitat degradation since 30th January 2020 and to take the earlier habitat state as the baseline for the purposes of biodiversity net gain.

It is unclear how the development is achieving a net-gain and negating the putative net-loss from the clearance of woodland/installation of hardstanding and mobile homes. This information should be provided prior to determination of the application.

Ancient Woodland

Importantly, ancient woodland is situated directly opposite the entrance of the site and so we highlight paragraph 180 of the NPPF 2023, which states; "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists". To limit the impact, Natural England recommends that a 15m buffer between the development footprint and the ancient woodland should be enacted.

We also highlight that any lighting, domestic cats, invasive species and recreational pressure from the development could entail negative impacts to the ancient woodland.

As such, it should be made clear that there is a sufficiently sized buffer-zone for the ancient woodland and information supplied as to how it will be safeguarded from the above impacts.

Both the biodiversity net-gains of the development, and how the ancient woodland will be adequately safeguarded, should be provided prior to determination of the application.

Kent Wildlife Trust

Summary:

The application site, which consists of priority habitat deciduous woodland, is situated within the Happy Valley, Meopham Local Wildlife Site (LWS). The Officer's report for a previous application at this site clearly demonstrates that trees have been felled and the site cleared (reference 20220106). It is noted that a similar process has taken place to the north of the application site, including as part of application reference 20230673, on land which also falls within the Happy Valley, Meopham LWS.

Kent Wildlife Trust (KWT) are seriously concerned about the apparent systematic felling of woodland in this location and the continued destruction of the LWS.

KWT wish to also raise concerns that, due to the site having been cleared, it is now not possible to establish the pre-development biodiversity value of the site or whether any protected/notable species were present. As a result, this development has led to a net loss of biodiversity and impacts on the site's biodiversity cannot now be mitigated against.

KWT advises that due consideration is given to the biodiversity value of the site prior to it having been cleared rather than its current state. Ecological enhancement measures should be required which far exceed any mitigation measures proposed by the applicant to compensate for the loss that has occurred and to ensure that there is a net gain for biodiversity.

The development fails to provide a 15-metre buffer zone from the Ridge Wood/High Reed ancient woodland situated opposite the application site as advised by Natural England and the Forestry Commission.

Site Designations and Protected Species

Happy Valley, Meopham Local Wildlife Site:

The application site falls within the Happy Valley, Meopham Local Wildlife Site (LWS) and is situated directly opposite Ridge Wood/High Reed ancient woodland. Happy Valley, Meopham includes fragments of scrubby, open ancient semi-natural broad-leaved chalk woodland and calcareous grassland along the steep sides of a dry chalk valley near Meopham. Several orchid species can be found within the LWS, including the Lady Orchid which only occurs in Kent, and 34 ancient woodland indicator plant species have been recorded. Several active badger setts are present, and rabbit and fox use the whole area. Bird species such as woodpeckers and common warblers, including lesser white-throat, have also been recorded.

Planning Framework

National and local policy require that development safeguards and enhances the environment.

National Planning Policy Framework

Happy Valley, Meopham LWS and the adjacent Ridge Wood/High Reed ancient woodland are protected under Section 15 of the National Planning Policy Framework (2023) (NPPF), which sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 of the NPPF states:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:
a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); [...]
d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
Development should, wherever possible, help to improve local environmental conditions such as air and

water quality, taking into account relevant information such as river basin management plans’.

Paragraph 180 of the NPPF states that:

‘When determining planning applications, local planning authorities should apply the following principles: If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.’

Part C of the paragraph is clear that development resulting in the loss or deterioration of ancient woodland should be refused ‘unless there are wholly exceptional reasons, and a suitable compensation strategy exists’.

In addition to the above, Part D of the paragraph sets out that ‘opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity’.

Relevant Development Plan Policies

It is considered that Policy CS12 of the Core Strategy is relevant in this instance. The policy states that:

‘Sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites, followed by nationally designated Sites of Special Scientific Interest, followed by Local Wildlife Sites and then by other areas of more local importance for biodiversity.’

The policy goes on to set out that:

‘There will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within the Biodiversity Opportunity Areas shown on the Strategic Green Infrastructure Network map and within new development.’

Relevant Planning History

20220106 - Application for change of use of land to Gypsy Traveller site with 3 pitches, each with space for stationing of a mobile home, utility block with associated hard standing for parking, with shared septic tank and space for associated storage of touring caravans and retention of works of woodland/scrub clearance and re-profiling and re-contouring on the site and retention of retaining structures – Refused 04.07.2023.

Key Considerations

The application has not been supported by any ecological assessments and does not mention that the application site is situated within an LWS or directly opposite ancient woodland. It is apparent from the Officer’s report for the previous application at this site (reference 20220106) that trees, and well-established vegetation have been removed relatively recently. A similar clearance of trees and vegetation has taken place to the north of the site on land that also falls within the LWS and is in close proximity to Cowcrofts / Copicar Woods, an ancient woodland. This includes land subject to application reference 20230673 which was refused, in part, due to habitat loss without sufficient compensatory measures, the introduction of residential activity in close proximity to ancient woodland, and its significant adverse biodiversity impacts.

The areas cleared, including the application site, are designated as priority habitat deciduous woodland. Priority habitats and species are of principle importance for the conservation of biodiversity in England and require conservation action under the UK Biodiversity Action Plan (UK BAP).

Kent Wildlife Trust (KWT) strongly objects to the ongoing systematic felling of priority habitat deciduous woodland and the continued destruction of the LWS. The LWS citation states that there is a tree

preservation order in place however it is unclear whether this is for specific trees or the whole LWS. It is recommended that this matter is investigated and that the Forestry Commission are contacted about the ongoing felling of trees.

The development fails to provide a 15-metre buffer zone from the Ridge Wood/High Reed ancient woodland situated opposite the application site as advised by Natural England and the Forestry Commission¹. KWT are concerned that, in the absence of a sufficient buffer, the proposal risks having a detrimental impact on the ancient woodland, and surrounding priority habitats within the LWS, due to increased recreational pressure, noise and light pollution, and cat predation.

The submission of an ecological appraisal at this stage will serve as an inaccurate representation of the biodiversity value of the site, as it should be considered through planning. Whilst it is not possible to retrospectively avoid or mitigate for impacts to legally protected species (such impacts should be dealt with under relevant wildlife legislation) and notable species and habitats, it is possible to retrospectively compensate for losses of biodiversity. The pre-development biodiversity value should be considered using a precautionary approach.

KWT object to the biodiversity losses that the current scheme will result in. If you are minded to grant this application then we advise that ecological enhancement measures should be required which far exceed standard mitigation measures typically put forward by applicants, including those briefly outlined in the supporting planning statement. These measures are essential to compensate for the loss that has occurred and to ensure there is a net gain for biodiversity in line with the Core Strategy and NPPF.

The applicant may wish to consider using a suitable biodiversity metric (i.e., the Defra Biodiversity Metric or the Defra Small Sites Metric) to evidence that their scheme will achieve a net gain. We would suggest that such a metric is used in line with best practice and the Environment Act (2021) to ensure that gains are properly evidenced. Where habitat degradation has taken place since 30th January 2020 Schedule 14 of the Environment Act (2021) enables planning authorities to take the earlier habitat state as the baseline when assessing biodiversity net gain.

It is also recommended that an ecological assessment of the development's impact on the adjoining areas of the LWS is carried out prior to determination of the application.

We hope that our comments and suggestions are useful. If you have any questions, please do not hesitate to contact me.

Southern Water (comments from the adjacent site 20220106)

The Environment Agency should be consulted directly by the applicant regarding the use of a septic tank drainage which disposes of effluent to sub-soil irrigation.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

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

KCC Highways (comments from adjacent site 20220106)

The development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. Requests imposition of standard highways informative.

Natural England (comments from adjacent site 20220106)

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is offered.

KCC Public Right of Way Officer (comments from adjacent site 20220106)

Advises that Public Rights of Way NS270 lies to the east of the site and may be affected by the application. A copy of the network map showing the definitive line of this path has been provided.

It is important to advise the applicants that a public right of way must not be stopped up, diverted, obstructed or the surface disturbed and there must be no encroachment on the current width, at any time now or in future. This includes any building materials or waste generated during any of the construction phases. Please note that no furniture or fixtures may be erected on or across Public Rights of Way without the express consent of the Highways Authority.

Kent County Council Heritage and Conservation (comments from adjacent site 20220106)

The site lies within an area of multi-period archaeological potential. However, it is considered unlikely that these proposals at this particular location, would be likely to have a significant below-ground archaeological impact and have no further comments to make in this case.

GBC Environmental Protection

I would re-iterate the comments made by this team in relation to the previous (refused) application.

Watching Brief: The applicant shall undertake a watching brief during construction in case any contamination issue is encountered. If during development any contamination is found, the local planning authority should be informed as soon as practical and the work shall not continue until written agreement is provided by the LPA as to the appropriate measures to be taken to resolve the matter and they are satisfied that those measures have been carried out.

Code of Practice on Construction and Demolition: Please apply as appropriate.

Drainage/sewerage informative: If foul sewage is to be removed using non-mains sewerage systems, a sewage treatment plant or septic tank system will be considered in preference to a cesspool. Such a system may require the prior consent of the Environment Agency under the terms of the Water Resources Act 1991. Applicants are therefore advised to discuss their requirements with the Environment Agency at the earliest opportunity. It should be ensured that the septic tank or cesspool is of adequate capacity to serve the proposed development and suitable access and hardstanding area shall be maintained to it on site.

Electric Vehicle Charging Point(s)

This Service would wish to see the inclusion of suitable electric vehicle charging facilities at the proposed development in support of the Council's commitment to become carbon neutral by 2030.

Meopham Parish Council

Forwarded on a letter from a member of public and also responded with the following:

We object to this application on the grounds of it constituting inappropriate development in the Green Belt, we do not believe any special circumstances exist to outweigh the harm. It would also be overdevelopment of the area.

We further oppose the application on the basis that the openness of the Green Belt would be impacted and there would be a loss of habitat including woodland and chalk downland.

Gravesham Highways Officer

This proposal raises a few issues.

1. Piecemeal development results in an increase in traffic which in isolation is insignificant but accumulatively over a selection of sites will become significant, particularly when the local roads are narrow with limited if any passing places.
2. The applicant admits in the Planning Statement that the site is not suited for walking or cycling. Second paragraph second sentence.

Highways

The proposal is for a single caravan site with off-road parking, which will use an existing access off the lane. The access will be formalised, and the gate set back so that a car can rest fully off the carriageway if necessary. The hedges either side of the access will be set back to improve the visibility.

There is sufficient room for parking and turning within the site. The site plan and wider area shows that it would not be possible to access services and facilities by foot or cycle or if you were to use this method of travel, it would not be the preferred route to walk or cycle. However, there are other residential properties along the lane and there is only one family so the fact that the site will only be a 2no car dependent family, this should carry weight.

3. Reference is made to the use of a septic tank for foul drainage. Building regulations state

Septic tanks

1.15 Septic tanks should only be used in conjunction with a form of secondary treatment (e.g. a drainage field, drainage mound or constructed wetland).

Drainage fields and drainage mounds

1.26 Paragraphs 1.27 to 1.44 give guidance on design and construction of drainage fields and drainage mounds to provide secondary treatment to the discharge from a septic tank or package treatment plant.

Siting

1.27 A drainage field or mound serving a wastewater treatment plant or septic tank should be located:

- a. at least 10m from any watercourse or permeable drain;
- b. at least 50m from the point of abstraction of any groundwater supply and not in any Zone 1 groundwater protection zone;
- c. at least 15m from any building;
- d. sufficiently far from any other drainage fields, drainage mounds or soakaways so that the overall soakage capacity of the ground is not exceeded.

1.28 The disposal area should be downslope of groundwater sources.

1.29 No water supply pipes or underground services other than those required by the disposal system itself should be located within the disposal area.

1.30 No access roads, driveways or paved areas should be located within the disposal area.

The location of the septic tank would appear to be incompatible with a secondary form of treatment.

- 4 Vehicle visibility splays should be plotted for the access. Heron Hill Lane is a derestricted highway and so is subject to a 60 mph speed limit, however given the nature of the road, it is extremely unlikely that vehicles would travel at 60mph. Also, if visibility is significantly improved this in itself could encourage vehicles to travel faster. The compromise position is therefore, unless a speed survey is available, to provide 43m x 2.4m x 43m visibility splays which Manual for Streets considers appropriate for 30mph. Drivers are responsible for driving to the conditions imposed by their environment and so should drive accordingly. This would mean the visibility splay is outside the applicant's control and would require the agreement of neighbouring landowners.
- 5 Any boundary treatment, hard or soft landscaping should not exceed 850mm within 2.4 metres of the carriageway and this area should not be obstructed by parking or storage.
- 6 The applicant states that two cars will be parked, but only shows one, although this can easily be rectified.

Given sight lines do not appear to be possible, and there is inadequate details on the foul drainage I would recommend refusal.

Neighbouring properties

The application has been advertised by site notice and individual letters to 13 properties. 22 letters of objection have been received. The main comments are:

- damage to the countryside and natural beauty
- narrow lane, not suitable for heavy traffic commercial vehicles, caravans, road is poor
- should be built on brownfield sites
- unlawful removal of trees
- inconsistent with the established architectural character of the locality, contradict the planning requirements of the area
- no street lighting or pavements
- inappropriate
- surrounding area blocked with cars
- beautiful walks made dangerous by the increase in traffic
- the area has been unlawfully developed over the past few years
- unclear of the number of intended pitches
- local established community and brings nothing but negativity to the area
- if allowed this is prejudicial against other applicants who are not gypsy travellers to develop land
- touring vans means an influx of people that don't care for the area, security of properties with the high turnover of people
- anti-social behaviour
- impact on utilities, water pressure etc
- noise from works, chainsaws, cutting down trees on weekends
- the landscape now resembles a quarry
- loss of green belt is a tragedy
- the previous inspector dismissed further expansion of more sites due to protection provided from greenbelt status
- only some neighbours received letters, the works have started even though the planning firm says they haven't, the firm should have said there were trees or hedges on the site, inappropriate in green belt, the trees were not all unsafe and didn't need to be removed, loss of biodiversity, priority habitat, safety concerns, the appeal site is still only occupied by one family and therefore there are vacant pitches available
- speculative acquisition

Officer's Analysis

Proposal

This application seeks permission for the change of use of land to create a gypsy/Traveller pitch. Works have already been undertaken to facilitate a material change of use of the land involving the levelling of the site and removal of trees/vegetation various engineering operations as shown below.



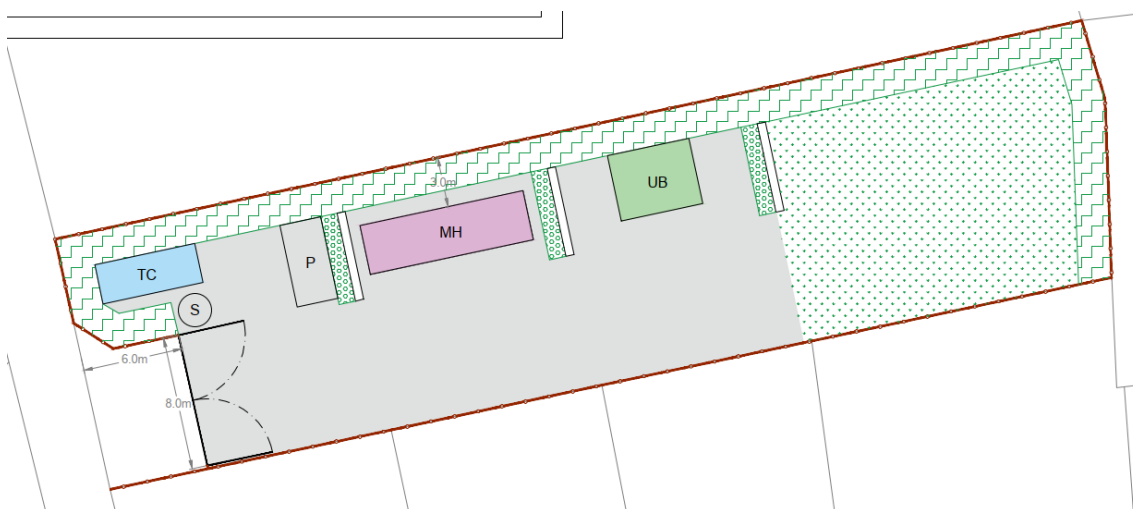
This application seeks planning permission for the material change of use of land to Gypsy Traveller site with 1no pitch each with space for stationing of a static caravan, utility block with associated hard standing for parking, with shared septic tank and space for associated storage of touring caravans. The site plan is shown below:



A rough overlay of the application site and aerial photo:



The block plan below shows the proposed arrangement of the site:



It shows a touring caravan (TC), septic tank (S), mobile home (MH), utility block (UB). The land to the north and east is shown as landscaping (not clear if this is hard or soft landscaping), the area to the east is shown as a wildlife/grassed area and the remainder is shown to be laid to hardstanding. Three hedgerows are shown to separate the site into three areas and a 2m high post and rail fence around the site with gates to the entrance. The utility block will be 5m wide, 4m deep and 3.65m high with a pitched roof built from red brick with grey slate tiles and white UPVC windows. Internally it would contain a utility room, WC and bathroom.

The application does not state how many pitches are planned. The drawings would indicate one pitch but the applicant's description is less clear as it states '**one pitch each**' and '**storage of touring caravans**' which indicates more than one.

The application form also states that the land was previously residential and known as Betsy's Bungalow, however there is no planning history on the site to indicate this was the case. The site is vacant.

The applicant has ticked 'yes' on the planning application form in relation to whether there are trees or hedges on land adjacent to the proposed development that could influence the development or might be important as part of the local landscape character but has not provided a full tree survey. They have also answered 'no' to the questions relating to biodiversity and conservation and whether there are protected and priority species; designated sites, important habitats or other biodiversity features; and features of

geological conservation importance.

Planning Analysis and Assessment

Introduction

This application for the change of use of land in Heron Lane Culverstone Meopham, to a Gypsy Traveller site with 1 pitch for a mobile home, one for a touring caravan and a utility block. The land has already been cleared and reprofiled ahead of the proposed development. The plot of land was previously undeveloped and extensively wooded in a relatively remote rural location and on a site which is within a Green Belt area, adjacent to ancient woodland, within a notified Local Wildlife Site and also within the Harvel Wooded Downs landscape character area.

It is therefore a proposal for development within a very highly sensitive location and where national and local policy give firm protection to the openness of the Green Belt, and to the character and appearance of the landscape, open countryside, biodiversity and ancient woodland.

The Main Issues

The principal issues in the consideration of this current planning application are:

- The traveller status of the proposed occupants of the site
- Whether the proposal would be inappropriate development in the Green Belt, including its effect on openness and the purposes of the Green Belt
- The effect of the proposal on the character and appearance of the area
- The effect of the proposal on biodiversity
- The sustainability of the site's location, in relation to local facilities and services
- Whether the proposed development would provide acceptable and safe living conditions for future occupants with regards to provision of private amenity space, privacy within the site, distance between caravans and parking and turning space
- Whether the proposal would harm the living conditions of nearby residents
- Highways, Access and Parking
- Any Other Material Planning Considerations
- Whether any harm to the Green Belt is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal

The Traveller Status of the proposed occupants of the site

The supporting statement lists the intended occupants of the site as being Mr Frankie Webb and does not mention any other occupants despite referring to the occupants as plural. The Planning Statement under the title 'Whether Very Special Circumstances exist which justify the grant of permanent or temporary planning permission' lists reasons there should be support for the application and includes 'the proposed pitch is for the applicant and his partner and child'. **This is the only mention of a child in the whole submission and does not state the age of this child. It also does not name the partner or status of this partner. In fact the second statement lists no-one else living on the plot other than the applicant.**

Save for mentioning horse fairs, trading activities and living on the roadside, there is no actual evidence provided of the status of the applicant or proof of a nomadic lifestyle.

The statement goes on to state that the issues that particularly relate to the applicant in this instance are general unmet need, medical health, personal circumstances and human rights and gypsy status.

No details of medical health and personal circumstances have been provided.

Paragraph 2 of Annexe 1 of the PPTS states that in determining Gypsy and Traveller status, considerations

should be given to the following

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.'

Case law establishes that a nomadic habit of life must have an economic purpose.

The Planning Statement sets out that:

1. They still travel for economic purposes and meet the definition of a Gypsy according to the PPTS 2015.
2. They are homeless with no lawful place to live with their caravan.
3. They have strong connections to Kent and have all travelled in the area for work and have family links to this area.

No verifiable evidence has been provided in support the statement above nor of the wider family's current and previous accommodation or that they have all led a nomadic habit of life.

The statement states that the family have strong connections with the west of Kent area. Again, no verifiable evidence has been submitted to demonstrate what attempts have been made to buy land or to provide accommodation on a public site.

The fact that it is stated that the family are looking to buy land to settle could be considered to indicate that the wider family are looking to cease a nomadic habit of life. No reasons have been given for this or whether there is any intent to live a nomadic habit of life in the future.

Overall, the Planning Statement provides an unclear picture to determine whether the applicant and the wider family meet the planning definition set out in Annex1 of the PPTS. The accompanying statement says that 'The Gypsy Traveller status as a family has never been in dispute and although they are not required to provide details of who will occupy the pitch as it would be down to the Council to impose an occupancy condition on the permission which would limit occupancy to any gypsy and traveller family which fall within the PPTS definition'. The applicant does not acknowledge that he proposal would be inappropriate development as they state that the site is already developed and has been approved as residential previously, albeit many years have passed since. There is no evidence that there has ever been a residential property on this site. The aerial photos and OS maps do not show a property on the plot and there is no planning history save for refusals of development. If there was ever to be found that a residential property once occupied this site it would be irrelevant as the site is currently vacant and has been for many years.

On 31 August 2015, the Department for Communities and Local Government published a planning policy statement on green belt protection and intentional unauthorised development. The policy came into force on that date and made intentional unauthorised development a material consideration to be weighed in the determination of planning applications and appeals. As the 31 August 2015 letter from the Chief Planner recorded, in cases where the development of land has been undertaken in advance of obtaining planning permission there is no opportunity to appropriately limit or mitigate the harm that has already taken place. As recognised by the agent's planning statement, the application is part retrospective in so far as the site has been cleared of woodland and reprofiled.

The application site is within the Green Belt and falls within a local wildlife site known as Happy Valley, Meopham. The local wildlife site was last approved in 2001.

Sites of Special Scientific Interest (SSSIs) protect the very best wildlife areas in the UK, and Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) protect areas which are important on a European scale. However, these designations do not protect wildlife at a local level and cannot ensure that the countryside as a whole is rich in wildlife. So Local Wildlife Sites fill an important gap not covered by other designations and are vital in building a Living Landscape. The importance of international, national

and locally designated sites is recognised in the adopted Development Plan and material considerations such as the National Planning Policy Framework.

Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat. It is a valuable natural asset, Natural England and Forestry Commission have produced 'standing advice' for ancient woodland, ancient trees and veteran trees. It is a material planning consideration for local planning authorities (LPAs). The site is within the buffer zone of ancient woodland.

The Planning Statement supporting the application states, that "the development would result in a minimal loss of openness to the Green Belt". By undertaking development prior to obtaining planning permission, the applicant has clearly prevented the proper application of the Development Plan and other material considerations in relation to this site. As such, despite the site forming part of a wildlife site and being adjacent to Ancient Woodland it has not been possible to consider the harm to these assets adequately and to ensure that if the Council were minded to grant planning permission, ecological matters and biodiversity net gain could be addressed adequately via planning conditions. The unauthorised development has caused friction with the local community, in such circumstances therefore on balance it has to be considered that the development that has taken place prior to the submission of this planning application, justifies significant adverse weight.

Whether the proposed development is appropriate in the Green Belt

As stated above, the application site lies in the Green Belt, as defined on the Local Plan Core Strategy Policies Map.

Core Strategy policy CS02 (Scale and Distribution of Development) focusses development within the urban area and rural settlements inset from the Green Belt as the most sustainable locations. Development in the rural area, outside these locations, as is the case with the current application, is supported where it is compatible with national Green Belt policy.

In line with CS02 (Scale and Distribution of Development), CS17 (Provision of Traveller sites), seeks to meet the accommodation needs of the Travelling community within the urban area and rural settlements inset from the Green Belt, either through the expansion of existing sites or provision of new sites, taking account of other policies in the Core Strategy.

The National Planning Policy Framework 2023 (NPPF) at paragraph 137, sets out that the essential characteristics of Green Belts are their openness and permanence, and paragraph 138 lists the five purposes that the Green Belt serves. In this case, the application site assists in safeguarding the countryside from encroachment.

Paragraph 147 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances unless for certain exceptions.

Paragraph 149 of the NPPF states that the construction of new buildings should be regarded as inappropriate development in the Green Belt but lists certain exceptions.

Paragraph 150 of the NPPF sets out certain other forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land as is the case with this application proposal.

It is considered that the proposal would not fall into any of the exceptions listed in paragraphs 149 or 150, for reasons detailed below and as such, the proposal represents inappropriate development in the Green Belt.

Effect on the Openness of the Green Belt

Openness is generally held to mean the absence of visible development or a manifestation of a use of the

land. The Court of Appeal in *Turner v SSCLG and East Dorset Council* (2016) EWCA Civ 466 (appendix 2) has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. As such, in assessing the impact of the current proposal on openness, consideration has been given to a number of factors including the spread of development across the site and the visual impact of the proposal.

The application site is located on the east side of a gentle valley which was originally wooded, forming part of a larger area of woodland, some of which is ancient woodland. The site was cleared of woodland at some point in 2020 and terraced the site to create level platforms which step up the valley side as can be seen below (January 2023):



The terraces are retained by 2m high fencing to create 4 level areas for stationing caravans and utility block. It is proposed to hard surface the access and terraced areas to enable at least 2 caravans to be stationed on the site, one touring caravan on the lower terrace and a static mobile home on the second.

In combination, the proposal will introduce a significant amount of development, including hard surfacing, retaining structures and mobile structures across the whole site which was previously wooded. The elevated location of these mobile structures and features on the valley side would make the proposed use and associated structures visually intrusive within the surrounding local area, including footpath NS270 to the east (rear) of the application site. The introduction of hedgerow planting would provide minimal mitigation of any visual and spatial impact. The use will also introduce activity, domestic paraphernalia, and the potential for onsite storage of materials and equipment that the occupants may have/need, associated with their business activities. As such given the amount and spread of development and the elevated nature of the site, the proposal would cause permanent visual harm and localised spatial harm to the openness of the Green Belt and represent encroachment of development into a previously undeveloped part of the countryside.

Openness was considered in the 'Heron Hill' appeal (APP/K2230/W/19/3223958 – appendix 1) and the appeal proposal was judged to result in a loss of openness and it was concluded that the harm would be considerable. As the sites are in close proximity to one another, with this site being further down the track, the harm would be greater and significant, as there is even less development towards the southern end of the track.

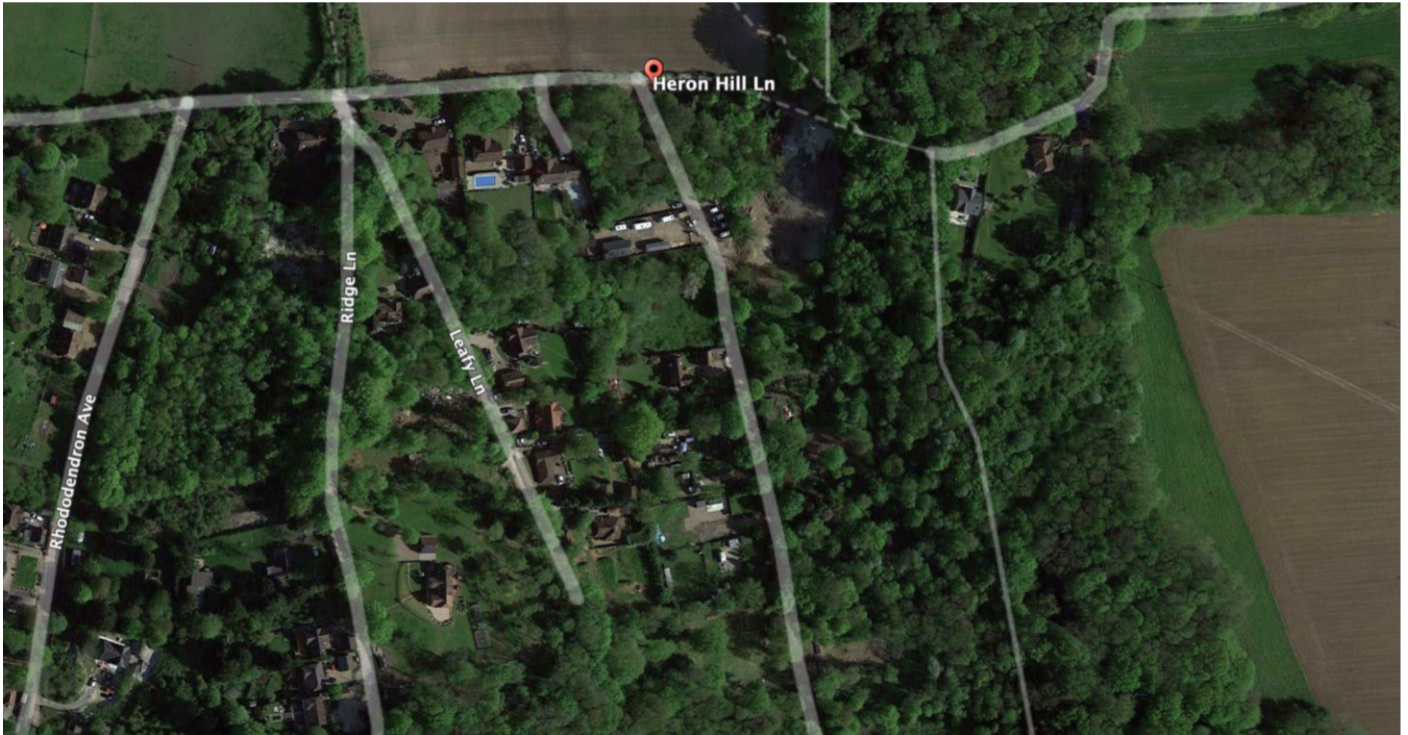
The proposal therefore fails to preserve openness and conflicts with the purposes of including land in the Green Belt, representing inappropriate development in the Green Belt contrary to paragraphs 137, 138, 147, 149 and 150 of the NPPF and Policy CS02 and CS17 of the Gravesham Local Plan Core Strategy September 2014. The NPPF states that substantial weight should be given to any harm to the Green Belt.

Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

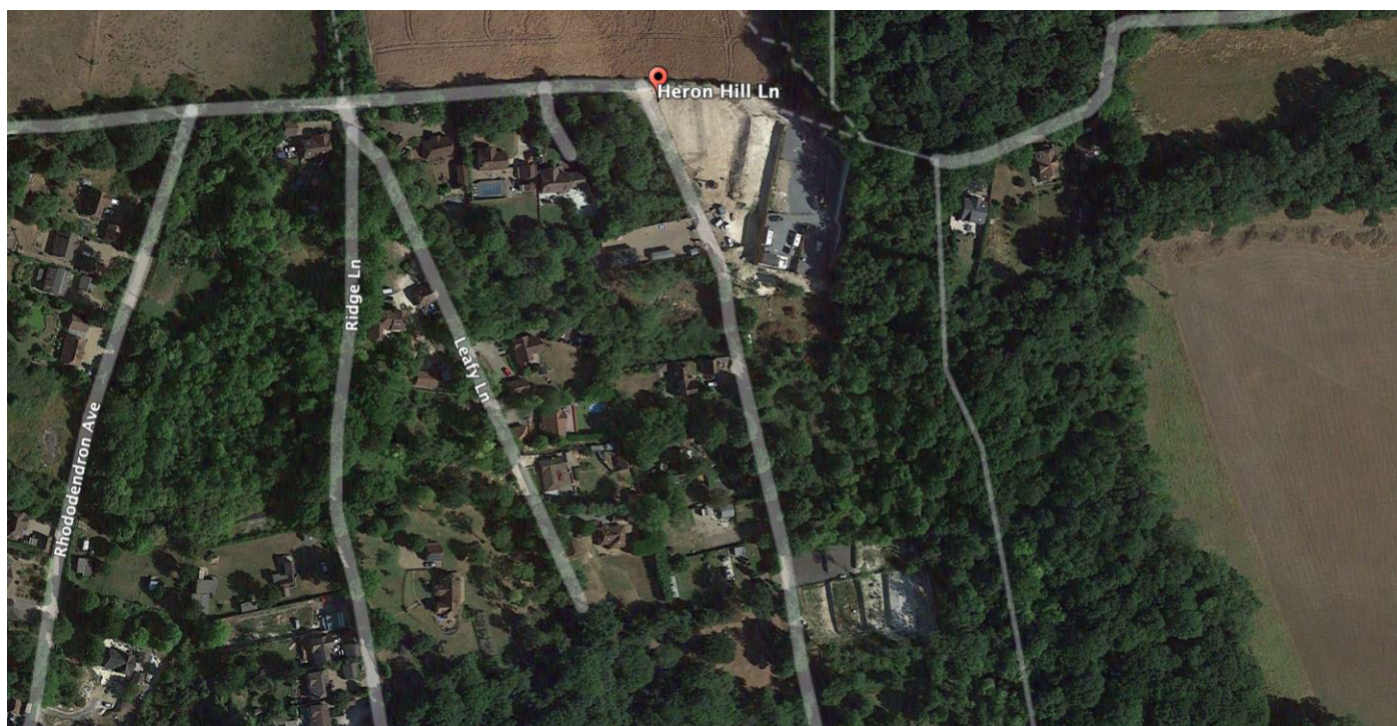
Impact on landscape character and the character and appearance of the area.

The application site lies in a predominantly wooded part of Heron Hill Lane, which contains limited sporadic development set in large well treed plots. As can be seen from the extract from Google Earth below, the site sits within a larger area of woodland. There are localised views of the site from Heron Hill Lane and Leafy Lane (to the west), as well as the footpath NS270 to the east.

Before unauthorised works (Google Earth – 5/5/2018)



After unauthorised works (Google Earth – 8/5/2022)



The NPPF in paragraph 174 seeks to ensure that development contributes to and enhances the natural and local environment by protecting and enhancing valued landscape and recognising the intrinsic character and beauty of the countryside. This approach is embodied in Policy CS12 of the Core Strategy which seeks to ensure new development conserves, restores and enhances landscape character in line with the guidance set out in the Gravesham Landscape Character Assessment. Policy CS19 goes further requiring new development to be visually attractive and locally distinctive. It should conserve and enhance the character of the built and natural environment, integrate well into the surrounding area and make a positive contribution to the street scene.

The site lies within the Havel Wooded Downs Landscape Character Area (LCA) defined in the Gravesham Landscape Character Assessment. The key characteristics of this LCA include:

- Varied topography with steep valley sides and plateaux
- Ancient woodland, chestnut coppice and small paddocks and pasture
- Traditional historic settlement of Harvel set around village Green
- Occasional traditional farmsteads
- Haphazard mosaic of residential plots and small holdings set within the woodland
- There is a comprehensive network of winding, often sunken, narrow lanes throughout the area.

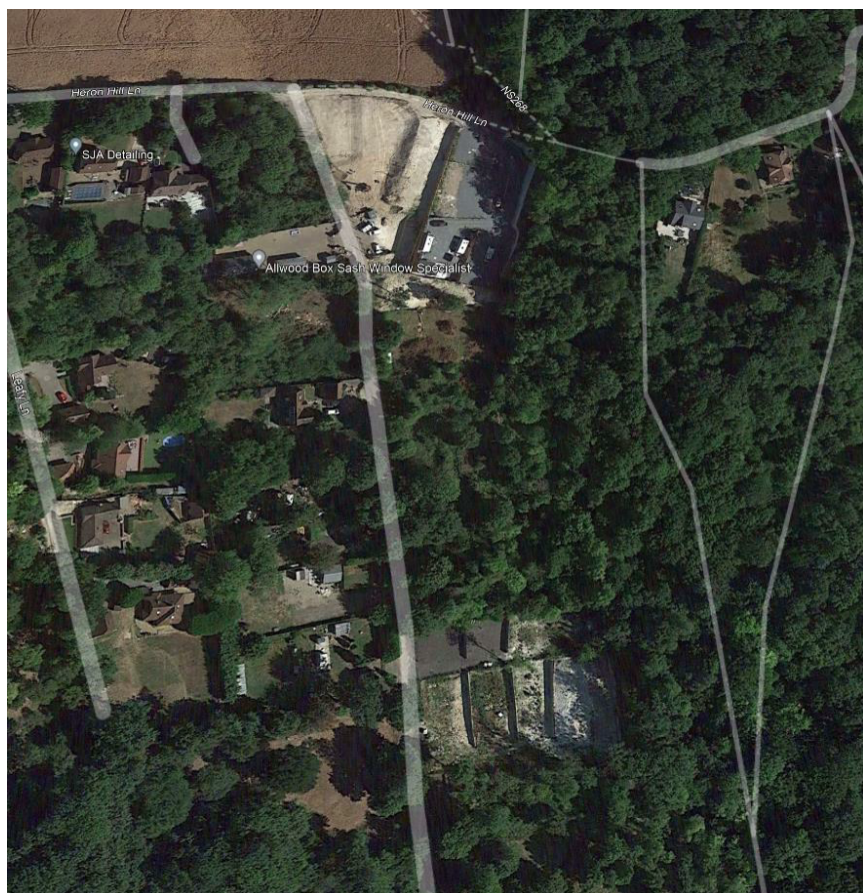
Footpaths and byways run throughout the area, particularly to the west.

In respect of this location, the LCA explains that the uncharacteristic and sporadic settlement of small plots within coppice woodland is a dominant element within the area, which creates an incoherent landscape. The combination of vegetation and topography create a very enclosed landscape with a high capacity to absorb inconsistencies within its woodland. The policy recommendations for this LCA include halting the erosion of the landscape character by resisting development of inappropriate design and materials; conserving the characteristic of narrow lanes; and softening new development using characteristic landscape elements.

The Council has undertaken a more focussed landscape sensitivity and capacity study to inform the Stage 1 Regulation 18 consultation on the Local Plan Core Strategy Partial Review. It focusses on the landscape around the existing urban area and rural settlements inset from the Green Belt, including that around Culverstone Green. The study assessed the landscape sensitivity of the Culverstone Valley Area as a whole and its ability to accommodate new development. It highlighted the importance of the woodland backdrop to the setting of Culverstone Green and wider views of the area and concluded that there was very limited capacity to accommodate further development without giving rise to significant landscape and

visual impacts. It did consider, however, that there may be scope for some small-scale redevelopment of existing developed plots subject to retaining the existing extent of the woodland, resisting loss of trees and respecting the natural valley topography.

The current proposal has resulted in the loss of part of a larger, established area of woodland, and as such has caused harm to a key local landscape feature, thus failing to conserve or enhance the woodland character of the locality in line with national and local policy guidance. In combination with the loss of woodland cover that recently occurred following the approval on appeal of the change of use of land at the junction of Heron Hill for use as a 5 pitch Traveller site and the associated clearance of trees from adjoining land (see Google Earth extract below), this proposal will compound the harm caused to the woodland character of this part of the Culverstone Valley Area, and, if permitted, it will be difficult to halt further loss of woodland in this area.



The proposal will introduce a dense, urban form of development into an undeveloped part of Heron Hill Lane, largely out of keeping with the surrounding density and type of development. The natural topography of this site of the valley has been significantly altered to allow the proposed use to take place. The elevated location of the proposed mobile structures, and associated parking, paraphernalia (including lighting) will appear as incongruous features given the current undeveloped character of much of this side of the valley. The proposal will also be clearly visible from nearby public vantage points including the nearby public footpath (NS 270) thus affecting the character of the area for walkers as well as residents. Whilst the planning statement indicates that onsite landscaping will be provided, including hedgerow and a wildlife/grassed area, this would be insufficient to negate the harm caused and to ensure that development would be assimilated into the wider woodland landscape over time.

The effect of the proposal on Ecology and Biodiversity

The application site, which consists of priority habitat deciduous woodland, is situated within the Happy Valley, Meopham Local Wildlife Site (LWS). Trees have been felled and the site has been cleared. It is

also noted that a similar process has taken place to the north of the application site, including as part of application reference 20230673, on land which also falls within the Happy Valley, Meopham LWS.

Due to the site having been cleared, it is now not possible to establish the pre-development biodiversity value of the site or whether any protected/notable species were present. As a result, this development has led to a net loss of biodiversity and impacts on the site's biodiversity cannot now be mitigated against.

Ecological enhancement measures should be required which far exceed any mitigation measures proposed by the applicant to compensate for the loss that has occurred and to ensure that there is a net gain for biodiversity.

The development also fails to provide a 15-metre buffer zone from the Ridge Wood/High Reed ancient woodland situated opposite the application site as advised by Natural England and the Forestry Commission.

Happy Valley, Meopham Local Wildlife Site:

The application site falls within the Happy Valley, Meopham Local Wildlife Site (LWS) and is situated directly opposite Ridge Wood/High Reed ancient woodland. Happy Valley, Meopham includes fragments of scrubby, open ancient semi-natural broad-leaved chalk woodland and calcareous grassland along the steep sides of a dry chalk valley near Meopham. Several orchid species can be found within the LWS, including the Lady Orchid which only occurs in Kent, and 34 ancient woodland indicator plant species have been recorded. Several active badger setts are present, and rabbit and fox use the whole area. Bird species such as woodpeckers and common warblers, including lesser white-throat, have also been recorded.

Happy Valley, Meopham LWS and the adjacent Ridge Wood/High Reed ancient woodland are protected under Section 15 of the National Planning Policy Framework (2023) (NPPF), which sets out the Government's current planning policy in relation to conserving and enhancing the natural environment. Paragraph 174 of the NPPF states:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:
a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); [...]
d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans'.

Paragraph 180 of the NPPF states that:

'When determining planning applications, local planning authorities should apply the following principles: If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.'

Part C of the paragraph is clear that development resulting in the loss or deterioration of ancient woodland should be refused 'unless there are wholly exceptional reasons, and a suitable compensation strategy exists'.

In addition to the above, Part D of the paragraph sets out that 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity'.

Policy CS12 of the Core Strategy states that:

'Sites designated for their biodiversity value will be protected, with the highest level of protection given to internationally designated Special Protection Areas, Special Areas of Conservation and Ramsar sites, followed by nationally designated Sites of Special Scientific Interest, followed by Local Wildlife Sites and then by other areas of more local importance for biodiversity.'

The policy goes on to set out that:

'There will be no net loss of biodiversity in the Borough, and opportunities to enhance, restore, re-create and maintain habitats will be sought, in particular within the Biodiversity Opportunity Areas shown on the Strategic Green Infrastructure Network map and within new development.'

The application has not been supported by any ecological assessments and does not mention that the application site is situated within an LWS or directly opposite ancient woodland. It is apparent from the Officer's report for the previous application at this site (reference 20220106) that trees, and well-established vegetation have been removed relatively recently. A similar clearance of trees and vegetation has taken place to the north of the site on land that also falls within the LWS and is in close proximity to Cowcrofts / Copicar Woods, an ancient woodland. This includes land subject to application reference 20230673 which was refused, in part, due to habitat loss without sufficient compensatory measures, the introduction of residential activity in close proximity to ancient woodland, and its significant adverse biodiversity impacts.

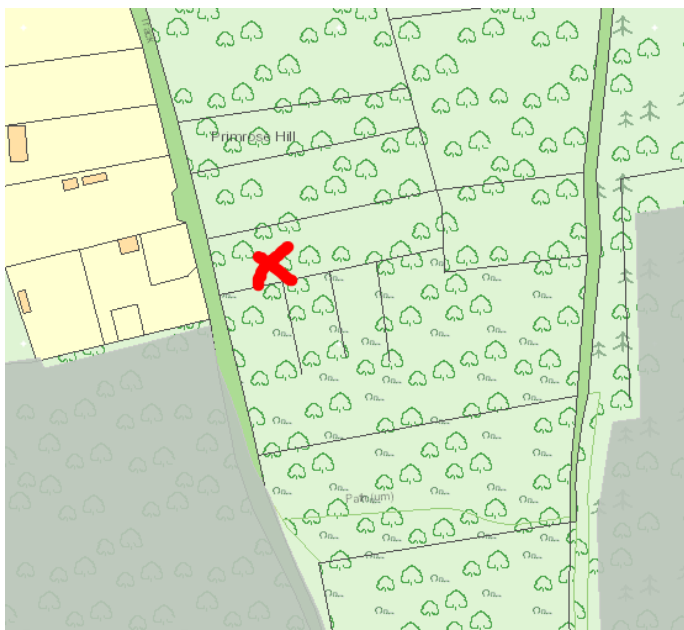
The areas cleared, including the application site, are designated as priority habitat deciduous woodland. Priority habitats and species are of principle importance for the conservation of biodiversity in England and require conservation action under the UK Biodiversity Action Plan (UK BAP).

The development fails to provide a 15-metre buffer zone from the Ridge Wood/High Reed ancient woodland situated opposite the application site as advised by Natural England and the Forestry Commission. In the absence of a sufficient buffer, the proposal risks will have a detrimental impact on the ancient woodland, and surrounding priority habitats within the LWS, due to increased recreational pressure, noise and light pollution, and cat predation.

The submission of an ecological appraisal at this stage would serve as an inaccurate representation of the biodiversity value of the site, as it should be considered through planning. Whilst it is not possible to retrospectively avoid or mitigate for impacts to legally protected species (such impacts should be dealt with under relevant wildlife legislation) and notable species and habitats, it is possible to retrospectively compensate for losses of biodiversity. The pre-development biodiversity value should have been considered using a precautionary approach.

Extracts from the DEFRA Magic Map show that there are areas of ancient woodland to the east and west of the application site, and the whole area is a priority habitat (deciduous woodland).

Ancient Woodland (in grey, site shown by red cross):



Standing Advice from Natural England recommend that a 15 m buffer should be provided between the development footprint and the woodland area to provide adequate safeguards to the ancient woodland. As can be seen from the extract below, this would mean that the first 9 to 12 meters of the site frontage should be clear of development.



The NPPF (paragraph 174) states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 175 of the NPPF states that “When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.

Gravesham Local Plan Core Strategy policy CS12 is out of step with the NPPF in that it requires no net loss of biodiversity, however it does seek to ensure that new development protects sites designated for their biodiversity value, such as Local Wildlife Sites, and encourages opportunities to enhance, restore, recreate and maintain habitats particularly in Biodiversity Opportunity Areas and within new development. Where a negative impact on priority habitat cannot be avoided and where the importance of the development is considered to outweigh the biodiversity impact, compensatory provision will be required either elsewhere on site or off site.

An ecology report has not been submitted with the application. As with the adjacent site and as raised by the KCC Biodiversity Officer at that site, it is therefore unclear how biodiversity has been taken into account

in developing this scheme, or how biodiversity net gain will be achieved (taking the earlier habitat state as a baseline) and the net loss of biodiversity negated given the clearance of woodland.

In the light of the above, it is considered that the site clearance and engineering works undertaken to date have caused significant harm to the natural environment which, if permitted would set a precedence for the removal of woodland from neighbouring sites to the detriment of the ecological value of the wider natural environment. No measurable mitigation proposals have been put forward to directly address or offset the harm to the natural environment, including the adjacent ancient woodland, resulting from the site works to date or the future use. Furthermore, no evidence has been submitted to demonstrate how, and the extent of measurable biodiversity net gains are achievable on site. As such the proposal runs contrary policy CS12 of the Gravesham Local Plan Core Strategy and paragraph 175 of the NPPF.

The sustainability of the site's location, in relation to local facilities and services

Policy CS02 (Scale and Distribution of Development) of the Gravesham Local Plan Core Strategy sets out the spatial strategy for the Borough, making it clear that new development should be focussed in the urban area or rural settlements inset from the Green Belt, as the most sustainable locations, and that development outside these areas should accord with national policy on Green Belt.

This approach also applies to Traveller sites, as set out in Core Strategy policy CS17 (Travellers). Locating development in such locations helps to reduce car dependency, enhance and maintain the vitality of settlements and encourage greater community cohesion in line with the social and environmental objectives of achieving sustainable development set out in the NPPF.

While the PPTS does not require Traveller sites to be located on bus routes or within walking/cycling distance of day-to-day services, it does state that local planning authorities should very strictly limit new traveller site development in the open countryside, which are away from existing settlements or outside areas allocated for development in the development plan. The NPPF (paragraph 79) states that to promote sustainable development, housing in rural areas should be located where it will enhance or maintain the vitality of rural communities.

The application site lies outside the village of Culverstone Green and within the rural area. As such the proposal will clearly introduce new development into the rural area, as defined on the Policies Map.

The nearest settlement to the appeal site is Culverstone Green which has a primary school, community centre, local shop and petrol station. The convenience store (which includes a post office) is 1.6km away via Heron Hill Lane and the A227 Wrotham Road. Medical facilities and a secondary school are available in Meopham Green, 2.5km away to the north of Culverstone Green via the A227. The nearest available public transport is at the junction of Heron Hill Lane with the A227, Wrotham Road, some 700m from the application site. There are hourly services between Gravesend and Sevenoaks.

Heron Hill Lane which is the nearest metalled road that provided access to Heron Lane (and which is a single lean track) is a single width, undulating, rural lane which lacks footways, street lighting and formal passing places. The narrowness of the road and lack of formal passing places, results in vehicles having to reverse along sections of the lane, causing conflict with other road users. As such, this is not a safe walking or cycling route and it is likely that the future occupants of the site will be reliant on the car for all journeys with the consequential impact on the local environment, including air quality. Such reliance runs contrary to the environmental objectives set out in the NPPF.

The PPTS recognises that Traveller sites are likely to be located in the rural area, but as with all residential development in the rural area, it should be located where it will enhance or maintain the vitality of rural communities (paragraph 79 of the NPPF). The heavy reliance on the car for most journeys means that opportunities to contribute to the vitality of Culverstone Green are diluted as services further afield can be accessed as part of linked trips.

There have been a number of appeals that have considered the sustainability of nearby locations. The

most relevant and recent being the traveller site at Heron Hill (APP/K2230/W/19/3223958 – appendix 1). In the Inspector's report the Inspector said the 'site is not far from Culverstone Green and is within the sporadically developed Culverstone Valley Area. As such the site is not physically isolated or away from the nearest existing settlement'. She concludes by saying 'Paragraph 13d in PPTS also recognises that a settled base can reduce the need for long-distance travelling. The families currently have no permanent base and frequently need to move on, therefore it is reasonable to assume that this would apply. The joint site could facilitate the sharing of lifts and the appellants have signalled an intention to access local services. This could help to support the vitality of the local community to a limited extent in line with paragraph 78 in the NPPF, as well as aiding social cohesion.' The Inspector mentions other appeal decisions in the CVA which determined that sites were not in a sustainable location for the proposed development but concluded that those cases related to proposals for housing rather than traveller sites.

The applicant admits in his Planning Statement that the site is not suited for walking or cycling.

On this basis, on balance, a similar conclusion is reached and therefore the proposal is considered to accord with local and national planning policy for the location of gypsy and traveller sites. The local policies are CS01, CS02 and CS19 in the Core Strategy, insofar as they seek to ensure development is sustainably located. There is no conflict with paragraph 25 of the PPTS or paragraph 79 in the NPPF as the site is not away from settlements or isolated

The Amenity of Future Occupiers - Whether the proposed development would provide acceptable and safe living conditions for future occupants

Core Strategy policy CS19 (Development and Design Principles) sets out that new development should be fit for purpose and located, designed and constructed to safeguard the residential amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land, as well as providing the appropriate levels of private and public amenity space for future residents.

The PPTS does not specify minimum pitch sizes or caravan sizes however the plans show at least 10m between the mobile home and touring caravan. There is almost 10m between the mobile home and the site boundary so if the adjacent site was developed the level of amenity for the future occupier would still be acceptable.

The Impact on the Amenity of Neighbouring Properties

There are no dwellings within 21m of the application site and therefore there will be no detrimental impact in terms of loss of outlook, privacy, sunlight or daylight from the development.

The proposal therefore accords with policy CS19 of the Gravesham Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2023.

Drainage

It is noted that the applicant intends to deal with foul water drainage by the use of a Septic Tank, these collect solids and therefore require occasional emptying whilst the liquid discharges to ground. It is not clear if it is proposed to use a soakaway rather than a drainage field. These matters would normally be addressed by Building Control and the Building Regulations.

Highways, Access and Parking

Access to the application site is via Heron Hill Lane, a single width byway open to all traffic, with no footway or street lighting and informal passing places and an unmade private track. As such an important consideration is ensuring that a safe and suitable access to the site can be achieved for all users and that any impacts on highway safety as a result of the development can be adequately mitigated to an acceptable degree (NPPF paragraph 110 (b) and (d)) The PPTS seeks to ensure that new Traveller sites do not place undue pressure on local authority infrastructure, which would include the highway network.

Saved policy T1 of the Gravesham Local Plan First Review seeks to ensure that all new development is adequately served by the highway network and saved policy T5 seeks to ensure that any new accesses do not cause harm to highway safety and can be properly formed in a location and to a standard acceptable to the local planning and highway authorities.

In terms of car parking provision, Local Plan Core Strategy Policy CS11 (Transport) states that sufficient car parking in new developments should be provided in accordance with adopted standards, which will reflect the availability of alternative means of transport accessibility to services and facilities.

This approach is supported in saved policies in the Gravesham Local Plan First Review Policy P3 (Policy for Vehicle Parking Standards) and in supplementary guidance in the adopted KCC vehicle parking standards (SPG4).

Heron Hill Lane is a single track road that is unlit and without footpaths or formal passing places. The element of the road leading to the site is unmade. The road is lightly trafficked. The proposal would result in a small but not unacceptable increase in traffic on the local road network.

Vehicle visibility splays should be plotted for the access. Heron Hill Lane is a derestricted highway and so is subject to a 60 mph speed limit, however given the nature of the road, it is extremely unlikely that vehicles would travel at 60mph. Also, if visibility is significantly improved this in itself could encourage vehicles to travel faster. The compromise position is therefore, unless a speed survey is available, to provide 43m x 2.4m x 43m visibility splays which Manual for Streets considers appropriate for 30mph. Drivers are responsible for driving to the conditions imposed by their environment and so should drive accordingly. This would mean the visibility splay is outside the applicant's control and would require the agreement of neighbouring landowners.

Any boundary treatment, hard or soft landscaping should not exceed 850mm within 2.4 metres of the carriageway and this area should not be obstructed by parking or storage. This could be controlled by planning condition in the event of an approval.

The applicant states that two cars will be parked, but only shows one, although this can easily be rectified. Sight lines do not appear to be possible

On balance and subject to condition no objection is raised on highways grounds.

Other Material Planning Considerations

In determining planning applications for traveller sites, policy H of the PPTS a number of issues that should be considered amongst other relevant matters:

- The existing level of local provision and need for sites
- The availability (or lack) of alternative accommodation for the applicants
- Other personal circumstances of the applicant
- That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- That they should determine applications for sites from any travellers and not just those with local connections

Each of these matters are dealt with in turn.

The general need for and supply of Traveller sites

Need

In respect of the Gypsy and Traveller 5-year land supply position, the council released a statement in June 2023, which can be found in Appendix 4 attached to this report. This shows there is an undersupply of 13 pitches for the period 2023 – 2028 based on the need identified in the GTAA (2018). The statement goes on to summarise how the council will address pitch need going forward through the Local Plan Core Strategy Review and Site Allocations.

Given the current policy position the council accepts that it does not have a 5 year supply of deliverable pitches to provide an alternative option for the applicant and his family members. The Council is however actively addressing this through the Local Plan process in line with national guidance as well as providing a criteria based policy to address applications on windfall sites.

Alternative accommodation

No evidence has been provided that the applicant has made attempts to find alternative accommodation within the Borough or elsewhere. There is however a vacant pitch on the Council's site but no evidence that the applicant has made any attempts to register with the Council or explore the availability of public site provision.

Personal Circumstances

Policy E of the PPTS states:

Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

This is reiterated in Policy H of the PPTS:

'However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.'

As discussed above, the proposed development is inappropriate in the Green Belt. The applicant has provided a Planning Statement in support of the application however this does not give any information about how the applicant has lived previously or whom he lives with. It states that he is currently a homeless male who requires a base near to his immediate family but does not say where they are located or who they are. The Statement says that staying at the roadside has become almost non-existent now in the UK due to new policing laws which is pushing travellers to occupy sites in an unauthorised fashion.

The Planning Statement does not go into details of Mr Webb's work but lists horse fayres that he attends all over the country which would appear to endorse the status of the applicant as a Traveller. However, there is no evidence to support this. In the previous Heron Hill (APP/K2230/W/19/3223958 – appendix 1) appeal the appellant produced mobile phone records and invoices that indicated work had been undertaken across the country. In this application no such evidence has been supplied. No details of family members have been provided and therefore it is not clear if there are any children under the age of 18 which would be impacted by this planning application.

Proving the Gypsy-Traveller status is only necessary if it becomes necessary to include personal circumstance as a material consideration which is the case here. The Statement however does not agree that the development is inappropriate. Nevertheless they have stated that the personal circumstances of the intended occupiers are an important material consideration.

Paragraph 24 of the PPTS is relevant. This states:

Local planning authorities should consider the following issues amongst other relevant matters when

considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Again, the exceptions do not apply in the Green Belt unless it is found to be in the best interests of the child. This was the case with the Heron Hill appeal (APP/K2230/W/19/3223958 – appendix 1).

The Council cannot demonstrate a five year supply but this does not weigh in favour of the application as it is located within the Green Belt.

A child is not mentioned within the application other than under the 'Very Special Circumstances' section of the Planning Statement but no details are given regarding the age of the child. The Heron Hill appeal (APP/K2230/W/19/3223958 – appendix 1) found in favour of the appellants because there were children on the site, and a settled base would bring health benefits to a child with a rare and life threatening illness. Weight was also given to the access to school and healthcare for the children. There is no evidence of the same situation within this application.

The unmet need for Traveller sites by the Council is not an exception on its own and this is clear within the PPTS and the NPPF. The Council accepts that there is an unmet need, a lack of alternative sites, there is a failure to plan for the needs of gypsy and travellers and an absence of five-year supply and that these attribute very substantial weight, however this does not outweigh the significant impact on the openness of the Green Belt, detrimental impact on the surrounding landscape character and loss of biodiversity including irreplaceable ancient woodland.

The applicant's agent has stated that a temporary permission could be considered however, Policy E of the PPTS states that this does not apply to Green Belt locations.

Without evidence to the contrary the proposal is inappropriate development within the Green Belt and very special circumstances do not exist, as the potential harm to the green belt by reason of inappropriateness, and any other harm resulting from the proposal, are not clearly outweighed by other considerations.

Human Rights Act 1998

Article 8 of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998, protects the right of an individual to, amongst other things, a private and family life and home. Furthermore, the courts have held that the best interest of the children shall be a primary consideration in all decisions concerning children including planning decisions. Due regard has been had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The ethnic origins of the applicant and his family and their traditional way of life are to be accorded weight under the PSED.

Refusal of this application would not make any of the prospective occupiers immediately homeless as he is already homeless, but it would deprive the prospective occupants of the possibility of establishing a home on the planning application site. It is also understood that the prospective occupiers may not reside upon a lawful site at present, as such a refusal of this application would represent an interference with their rights under Article 8 of the First Protocol of the European Convention on Human Rights.

However, the protection of Green Belts, Ancient Woodland and local wildlife sites is an important aim of local and national planning policies. The protection of the Green Belt alone is a legitimate objective in the public interest and has a clear basis in the relevant planning legislation. In these circumstances, some interference with Article 8 rights is permissible, and it is considered that the protection of the public interest cannot be achieved by means which are less interfering with the prospective occupiers' rights. They are proportionate and necessary and hence would not result in a violation of rights under Article 8.

Equalities Considerations

The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value.

The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice.

The proposed change of use of land to Gypsy Traveller site would not outweigh the harm to the openness of the Green Belt, Landscape, Local Wildlife sites and ancient woodland. Full weight from all comments received in reaching a decision have been taken into account.

Conclusions and Overall Balancing Exercise

Factors that weigh against the proposal:

It is clear that the proposal represents inappropriate development and as such would cause substantial harm. The NPPF requires that substantial weight is given to any harm to the Green Belt and that very

special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

In this case it has been demonstrated that proposal will cause significant harm to openness as well as resulting in encroachment into the countryside, causing harm to one of the purposes of the Green Belt. The proposal will cause significant harm to rural character and woodland appearance of the locality and in the absence of appropriate mitigation proposals the development will also result in the loss of biodiversity from the site as well as causing harm to the adjacent ancient woodland.

It also important to consider that the intentional unauthorised development, would cause unacceptable harm to the Green Belt, Ancient Woodland and the local wildlife site, this must be attributed significant weight.

Against this, factors that weigh in favour of the proposal:

As discussed above there is an unmet need for Traveller sites, lack of alternative sites, the failure to plan for the needs of gypsies and travellers and the absence of five-year supply.

A settled base would provide access to healthcare for the applicant, although no medical information has been provided, and an improved quality of life in contrast to life on the road. This is a matter to which moderate weight is attributed. It would also meet requirements in Article 8 of the Human Rights Act regarding the right to a home and a private and family life, and allow the group to live together as part of their traditional lifestyle.

On balance the harm identified is not outweighed by any of these factors, including the need for more gypsy or traveller sites in the area, or the prospective occupiers' personal circumstances, on either a temporary or permanent basis.

Recommendation:

Refuse for the following reasons;

1. The site lies in the Green Belt outside the built up confines of the settlement of Culverstone Green. The proposal is inappropriate development and will introduce a significant level of built development, hard surfacing, retaining structures and mobile structures onto a previously undeveloped site. Given the scale and spread of the proposed development and its sloping location, will harm the openness of the Green Belt and will result in encroachment of built development into the countryside. In the absence of any very special circumstances to outweigh the degree of harm caused to the Green Belt and other identified harm the proposal is contrary to the requirements set out in Section 16 (paragraph 149 (e) of the National Planning Policy Framework 2023, the Planning Policy for Travellers Sites 2015 and policies CS01 (Sustainable Development) and CS02 (Scale and Spatial Distribution of Development) of the Gravesham Local Plan Core Strategy (2014).

2. The site lies in the Harvel Downs Landscape Character Area. The proposal, by virtue of its location, nature, scale and spread, combined with the specific characteristics of the site and the immediate surroundings, in particular the woodland surroundings, the topography, its locally prominent location and proximity to footpaths and unmade tracks, will cause harm to the local rural landscape character and detract from the rural and visual amenities of the area, contrary to policies CS12 (Green Infrastructure) , CS17 (Traveller Sites) and CS19 (Development and Design principles) of the Gravesham Core Strategy (2014) which seek to ensure that new development conserves and enhances the natural environment and landscape character in line with the Gravesham Landscape character Assessment and integrates well into the surrounding area.

3. The proposal lies within the Happy Valley Local Wildlife Site where woodland habitat has been removed and the site regraded in advance of the proposed development. The proposal fails to include sufficient compensatory measures in terms of mitigation planting or landscaping to offset the habitat loss and will introduce residential activity in close proximity to the adjoining ancient woodland. The proposal will therefore fail to conserve or enhance the biodiversity value of the Local Wildlife Site in line with Core Strategy policy CS12 (Green Infrastructure).

Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	16 October 2023	Dated:	16th October 2023