

Delegated Report

Planning Application

Application no:	20220106
Location:	Land Off Heron Hill Lane, Meopham, DA13 0DT
Description:	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.
Applicant:	Mr Robert Webb
Site Visit Date:	14 July 2022, 06 October 2022, 25 January 2023 and 25 April 2023.

Description of the Application Site and Surroundings

The application site comprises a plot of land on the east side of Heron Lane (also signposted on the ground as being Valley Lane) an unmade track (to the south of Heron Hill Lane) Culverstone.

The application site has an area of 0.18 hectares (0.45 acres) and is indicated as having a frontage width of 28m and a maximum 58m deep. It is a sloping site being much higher to the east than the western boundary where the site adjoins the track, and it has a fall (according to the planning Statement) of 4-5m down through the site, although in the more recent applicant's Ecology Report the drop is indicated as being 11m. The land is undeveloped containing no buildings.

It is noted that unauthorised works have already been undertaken on the site in respect of re-contouring and re-profiling to create terraces and a graded internal access track, with the terraces and levels separated by retaining structures formed using concrete posts and panel fencing.

There has also been extensive tree and scrub clearance on the site. The site is now enclosed with 1.2m high timber post and rail fencing.

There are a number of other similar small plots of undeveloped land adjoining the site in Heron Lane but there are a few plots that have been developed and are occupied residentially and are mostly of a longstanding nature. The number of developed plots to the west in Leafy Lane is less sparse and where there are a number of permanently occupied dwellings.



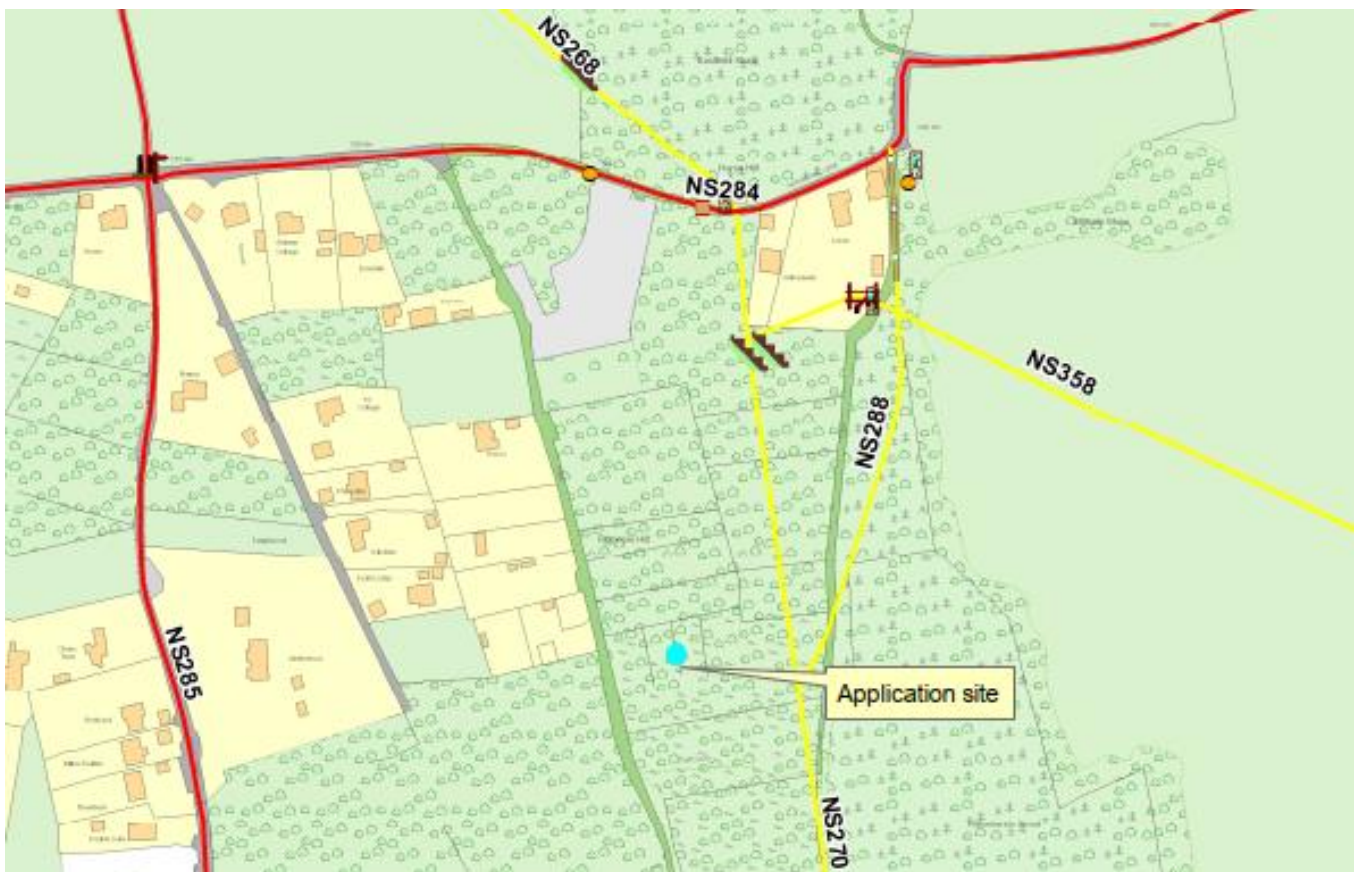
The track in Heron Lane leads further south to Beechen Wood Farm but it is now blocked off at the gate to this farm.

The site is within a rural area and is in the designated Metropolitan Green Belt and outside of the inset rural settlement of Culverstone Green that lies to the west. The site is also within a Local Wildlife Site (Happy Valley) designated in 1988, amended 2001.

The trees on the site are not protected by a Tree Presentation Order (TPO) although the land to the west and east of the site are within protected ancient woodlands (Beechen Wood and Willowlands Wood - marked W2 and W1 respectively on the plan below) in the Culverstone Valley TPO dating from 1978.



Although the actual unmade track that accesses the site is not shown as a public footpath, that part of Heron Hill Lane to the north is a byway open to all traffic (NS284) and there is a network of public footpaths to the rear of the site (east of the site) including NS270. The routes of these are shown in the plan below.



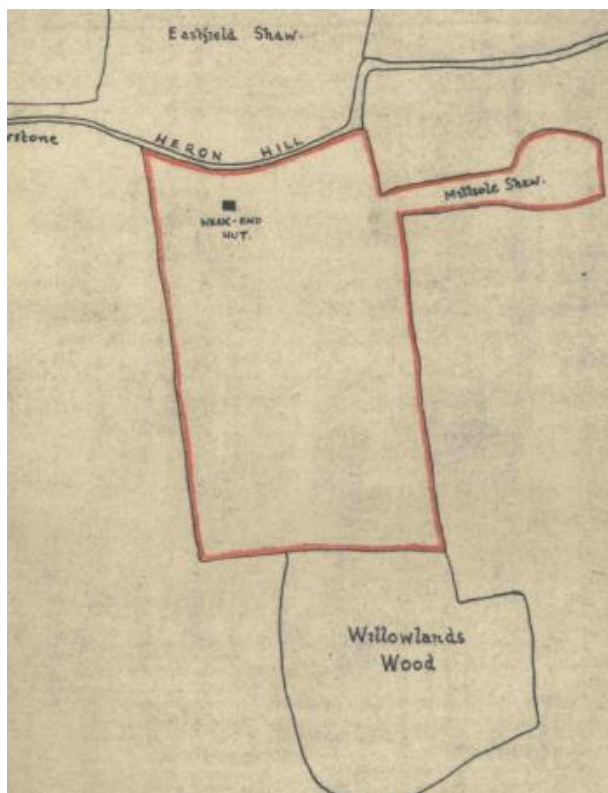
Planning History

Application Site

There is no record of any previous planning applications for any form of development solely of the application site.

However, the application site appears to have been part of a much larger application site (see red line plan below) including all the land on the east side of Heron Lane extending southwards from Heron Hill Lane (on 8.5 acres of land) under planning ref TH/6/57/155. The application description was 'site for the erection of a dwelling in connection with a smallholding'.

Planning permission was refused on 09 October 1957 on grounds that the site was not in an area for general development and was included in the Development Plan as an area of great landscape value in which permission would not be given except in very special circumstances, that the site was within a natural green belt around Meopham and also on the ground that the proposal was not supported by the Ministry of Agriculture Fisheries and Food.



There have been no further planning applications in the intervening period, prior to this current application.

Proposal

This planning application is for the change of use of land to a Gypsy Traveller site with 3 pitches, each with space for the 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. Little detail has been provided of the people who will live on the site other than the applicant and two of his adult children. This is discussed later in the report in the 'Personal Circumstances' and 'Human Rights' sections.

Submitted Plans and Documents

Planning Application Form and Certificates

Planning Statement by Heine Planning Consultancy (Ref L1-J19-2020)

Ecology Report by Heine Planning Consultancy, May 2022

Plan 1 – Location Plan (scale 1:1250 A4)

Plan 2 – Proposed Site Plan (scale 1:500 A4)

Plan 3 – Proposed Utility Block (scale 1:100 A4)

Topographical Plan Drawing 16300/22 by Sitech Surveying Services, May 2022

Environment Agency Foul Drainage Assessment Form

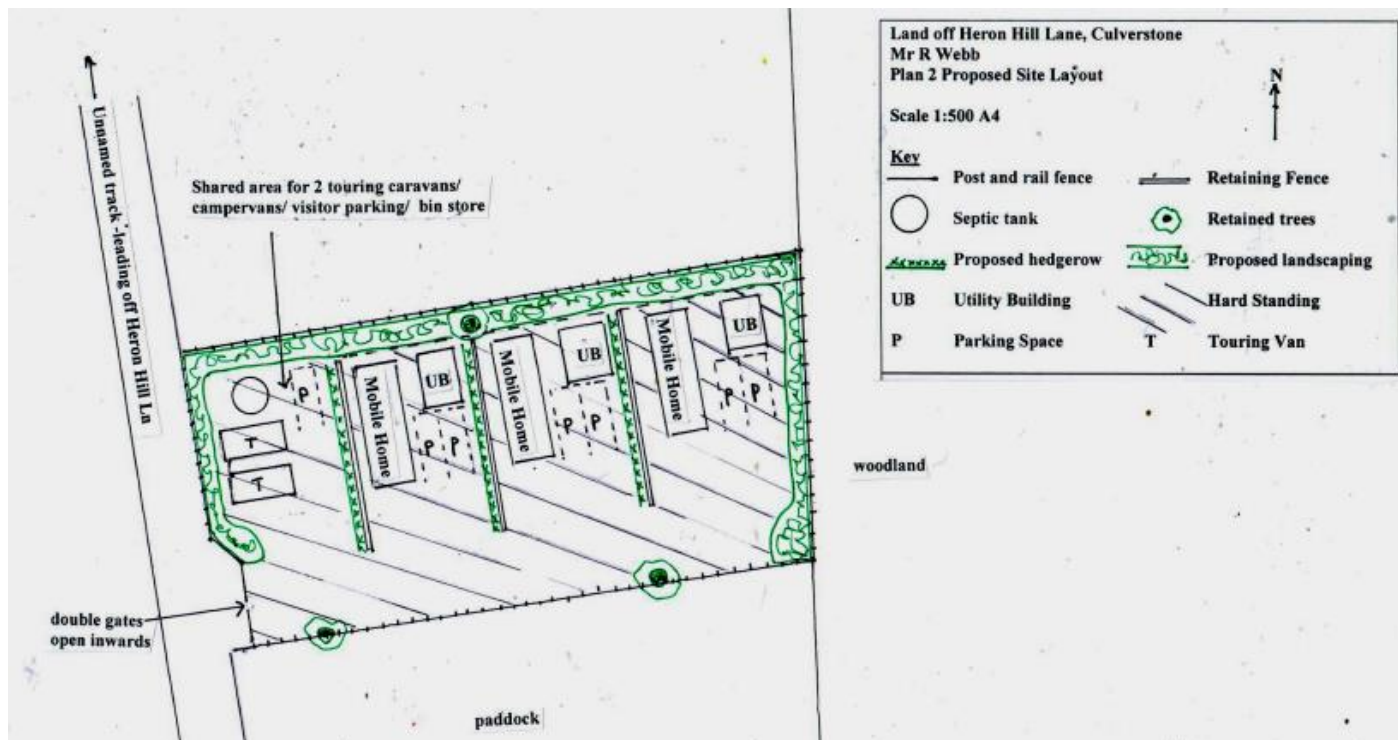
FFT (Friends Families and Travellers) research January 2020 and January 2021

Clive Emson auction photo of site

Details of the Development

It is indicated that the use of the site as a private residential Gypsy-Traveller site would require access from surfaced roads, hardstanding for caravans and 6m separation distance between occupied caravans, parking space for cars, electricity and drinking water supplies, washing facilities, sewerage disposal, refuse collections, fire extinguishers, boundary treatment.

The proposed site layout is shown below.



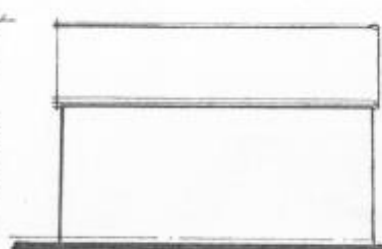
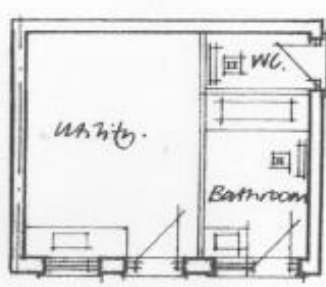
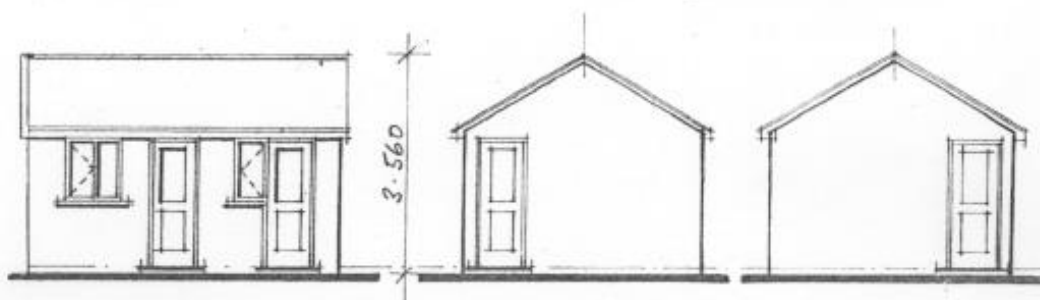
It is indicated that no business use is proposed, and permission could be conditioned to ensure this. It is stated that it would also be possible and acceptable to limit the size of vehicles using the land to nothing larger than 3.5 tonnes vehicles i.e., small pickup/van size.

The hardstanding for the access, shared driveway and yard areas would be constructed using Type 3 limestone subbase to allow water to freely drain as a permeable subbase. A concrete base would be laid for the utility blocks and mobile homes with roof run collected in large water butts for reuse on site (e.g., for water plants, cleaning vehicles and caravans etc.).

The mobile homes are each indicated as being two-bedroom units. The proposed utility block for each mobile home is 5m by 4m and 3.56m high and is shown in the extract from the submitted drawing below.

PROPOSED FRONT ELEVATION

SIDE ELEVATIONS



PROPOSED REAR ELEVATION

It is indicated that any lighting would be limited to low level domestic PIR units on the caravans and day rooms and at the entrance to each plot.

In terms of fencing, it is indicated that it is intended to continue the 1.2m timber post and rail fencing across the site frontage and install two 12ft timber 5 barred farm gates.

The applicant's agent's Planning Statement suggest that the mobile homes are low level structures which provide compact living accommodation and are often relied on to provide low-cost accommodation in rural areas for essential workers, and that there are other mobile homes in the area including a long-established site at The Robins, another site almost opposite this application site and the recently approved Traveller site to the north.

In terms of the works already undertaken it is indicated that there have been some alterations to the site contours. This has been done mostly with materials on site, and that no materials have been removed and only a small amount imported. Three terraced areas have been created with a graded internal access track.

In respect of the tree clearance, it is indicated by the applicant's agent that the site has been cleared of most of the scrub vegetation and regenerating birch/ hazel trees and that there were also problems with fly tipping and asbestos and other waste that had to be removed from the site, but three thin birch trees are retained on the site boundary.

It is suggested that a photo from the Clive Emson auction catalogue that has been submitted of how the site looked prior to sale shows some regenerating woodland next to the track and tree fall elsewhere within the site, which is due to the thin soil cover over the chalk base.

It is stated that there was little woodland on the slope, and that site works have cut into the woodland bank at the eastern end of the site and whilst this may have severed roots of trees in the adjoining woodland the harm is minimal given the shallow soil layer and fact most of the re-profiling is carried out within the chalk base layer.

The Planning Statement proposes hedging plants of local provenance in front of the concrete post and panel retaining fences and comprising a staggered row of 60% mix of hawthorn/ blackthorn and 40% mix of holly, hazel, and hornbeam and would connect with a 3m wide landscape strip down the northern side of the plot. It is proposed to plant this area up with low growing shrubs and in addition small trees, chosen from feathered whips 1.2 - 1.8m tall would be planted at 3m centres across the site frontage and across the rear (eastern) boundary.

The applicants Planning Statement sets out details of the applicants Gypsy status and the personal circumstances that are suggested would need to be considered if the Council finds a departure from policy and/or other harm and then finds that the other material considerations are insufficient to outweigh the identified harm. This is referred to later in this officer report.

Development Plan and other related Planning Policies and Guidance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Courts have held that it is a matter of planning judgement as to whether a proposal is in accordance with the development plan when 'read as a whole' and conflict with a particular policy or policies may not pass that threshold.¹

Where there are other material considerations, the development plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date.

The Development Plan for Gravesham currently comprises:

- *The Gravesham Local Plan Core Strategy and Policies Map (September 2014);*
- *Remaining Saved Policies in the Gravesham Local Plan First Review (November 1994); and*

¹ See the Judgement in the Court of Appeal on R(on the application of William Corbett) and The Cornwall Council and others [2020] EWCA Civ 508 at <https://www.bailii.org/ew/cases/EWCA/Civ/2020/508.pdf>

- *The Kent Minerals and Waste Local Plan 2013 - 2030 (July 2016, revised 2020)*

There are a number of other planning policy documents which are of some relevance to the consideration of planning applications and are material considerations, including national planning advice and guidance in the National Planning Policy Framework (NPPF), the Planning Policy for Traveller Sites (PPTS, 2015) the National Planning Practice Guidance (NPPG), and supplementary planning guidance and where they exist neighbourhood plans. There are currently no relevant neighbourhood plans.

Previous decisions on planning applications and appeals relating to the site or in the vicinity of the site and relevant case law etc. are also capable of being material considerations.

Local Planning Guidance

Gravesham Local Plan Core Strategy, September 2014

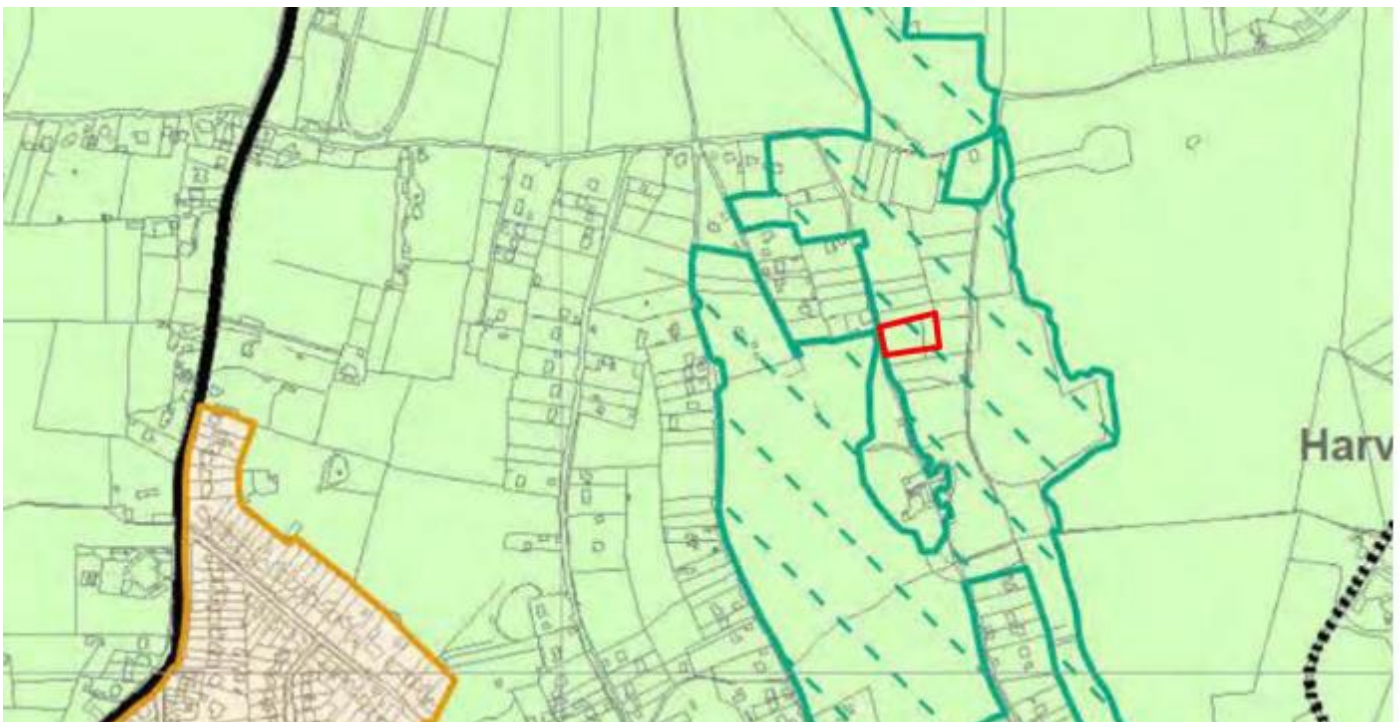
The Core Strategy sets out the Council's spatial vision and strategic objectives for the Borough to 2028 and the policies which will deliver them. It identifies the main areas where major change is likely to take place and allocates sites which are key to achieving the strategy.

The whole of the application site is shown as being within an area designated as **Green Belt** (Policy CS02) and a **Local Wildlife Site** (Policy CS12) on the Gravesham Local Plan Policies Map.

The following development plan policies in the Gravesham Local Plan Core Strategy are of relevance:

Core Strategy Policy CS01: Sustainable Development
 Core Strategy Policy CS02: Scale and Distribution of Development
 Core Strategy Policy CS11: Transport
 Core Strategy Policy CS12: Green Infrastructure
 Core Strategy Policy CS17: Provision of Traveller Sites
 Core Strategy Policy CS18: Climate Change
 Core Strategy Policy CS19: Development and Design Principles

An extract from the Gravesham Local Plan Policies Map is shown below. The site is shown by the red line boundary and is within the Green Belt and well beyond any rural settlement, the nearest being Culverstone Green to the southwest, well over a kilometre away.



Gravesham Local Plan First Review 1994

The Gravesham Local Plan First Review was originally adopted in November 1994. A substantial number of policies of the Gravesham Local Plan First Review were saved by a Direction dated 25 September 2007 of the Secretary of State under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 as transitional arrangements pending adoption of the Core Strategy.

Saved policies contained in the Gravesham Local Plan First Review should still be accorded significant weight, albeit that the weight accorded should be greater where policies are consistent with the National Planning Policy Framework (NPPF, paragraph 219). Those Local Plan First Review policies that remain in force are listed in Appendix 1 of the Local Plan Core Strategy. The remaining saved policies will be replaced following the adoption of the Site Allocations and Development Management Policies Development Plan Document.

The following remaining saved policies are relevant to the consideration of this proposal:

Policy T1: Impact of Development on the Highway Network

Policy T4: Development outside the Built-Up Area

Policy T5: New Accesses onto Highway Network

Policy P3: Vehicle Parking Standards

Review of Local Plan

Paragraph 33 of the NPPF (2021) sets out those 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 the review 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 a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan First Review (1994) generally conform with the National Planning Policy Framework (2021), the Council will also seek to replace these.

Gravesham Local Plan Core Strategy Partial Review, Site Allocations and Development Management Policies

The council is currently undertaking a partial review of the Gravesham Local Plan Core Strategy (2014) and producing Site Allocations and a Development Management Policies Document. Two Regulation 18 consultations have taken place with the 2nd stage consultation completed at the end of 2020. Progress on the Regulation 19 stage consultation is underway but has been delayed recently due to delays in relation to the completion of transport evidence needed to support the emerging Local Plan. The Local Development Scheme timetable is being updated as detailed in a report to the council's Cabinet in January 2023. It details that the Regulation 19 consultation will take place in September/October 2019 with final adoption of these documents in December 2024. Given the current stage in the plan preparation, little weight should be given to the emerging Plan policies.

National Planning Policy Guidance

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) 2021 is a material consideration. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11) which means approving development proposals that accord with the development plan without delay and where there are no relevant development plan policies or where the policies are out of date planning permission should be granted unless policies of the Framework provide a clear reason for refusing the development such as where land is designated as Green Belt or any adverse impacts would so significantly and demonstrably outweigh the benefits or specific policies in the NPPF taken as a whole.

The following paragraphs are specifically highlighted as being of importance to the consideration of the development proposals, but it should not be taken that these are the only parts of the NPPF that need to be

considered. Reference to the national planning guidance is also considered in the analysis section of this report.

Section 2, Paragraphs 7 - 14: Achieving Sustainable Development

Section 4, Paragraphs 38 - 59: Decision Making

Section 5, Paragraphs 60 - 80: Delivering a sufficient supply of homes

Section 9, Paragraphs 104 - 113: Promoting Sustainable Transport

Section 12, Paragraphs 126 - 136: Achieving well-designed places

Section 13, Paragraphs 137 - 151: Protecting Green Belt land

Section 14, Paragraphs 152 - 173: Meeting the Challenge of Climate Change, Flooding and Coastal Change

Section 15, Paragraphs 174 - 188: Conserving and Enhancing the Natural Environment

Section 16, Paragraphs 189 - 208: 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 \(31 October 2022\) \(bailii.org\)](#)). 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.

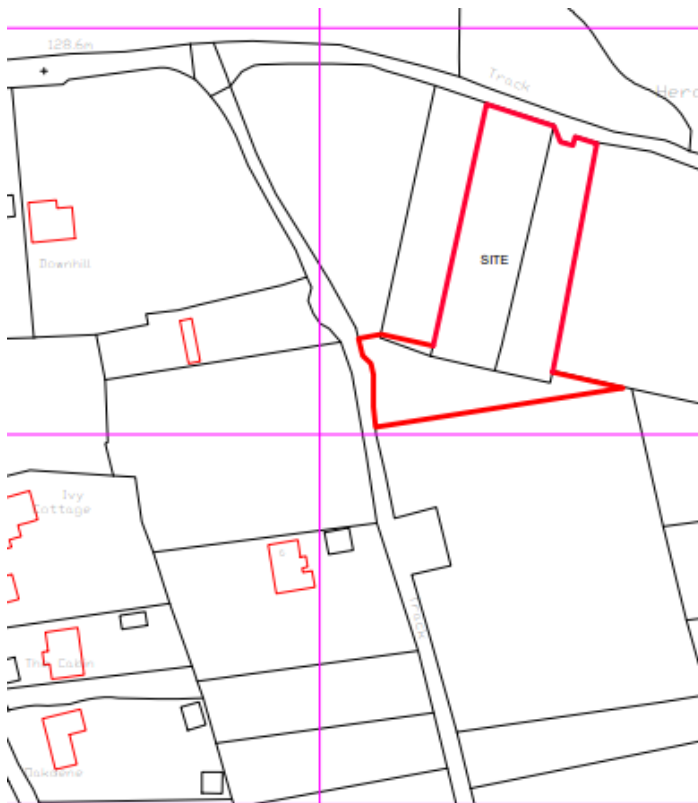
The following documents are relevant to the consideration of this development:

- 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

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 Received

Consultations - Internal

GBC Regulatory Services - Environmental Protection Comments

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 Local Planning Authority 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

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.

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.

GBC Highways Officer

Advises that the first issue is the access, and whilst not being a highway maintained at public expense, the track leading to the site does serve several properties. It is therefore appropriate that suitable visibility splays should be provided at the access. Manual for Streets recommends that for a 10mph environment, visibility splays of 11m x 2.4m x 11m should be provided and this can be achieved within the site with a central access point.

With regards to the vehicle parking spaces, it is noted that the applicant suggests there is a weight limit of 3.5 tonne on vehicles parked on site, this equates to a transit size van which measures 5.531 to 6.704 metres long x 2.112 metres wide with the mirrors folded or 2.474 metres if the mirrors are extended. Such vehicles do not therefore park in a standard car parking space and instead should be provided with a van parking space as defined by SPG4.

The parking space for a light goods vehicle (LGV) as defined by SPG4 is 7.5 metres long by 3.5 metres wide, whilst for a car it is 5 metres long by 2.5 metres wide in both cases the width is increased by 200mm when the parking space is adjacent to an enclosed boundary to provide the space that would be borrowed from an adjoining parking space or aisle when leaving or entering the vehicle. The plans submitted are therefore inadequate as they do not show appropriate parking. Assuming one car and one LGV per caravan the parking area would have to be 200mm due to the enclosed boundary + 3.5 metres for the LGV + 2.5 metres for the car giving 6.2 metres, to this should then be added a reasonable pedestrian path to the mobile home.

Inclusive Mobility A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure suggests

the minimum acceptable width of a footway for distances up to 6 metres is one metre and it is not unreasonable to suggest the same is appropriate for a dwelling. However, as the path is adjacent to a parking space, no doubt some space can be borrowed from the parking space. Applying the 200mm guidance for increasing the width of a space in reverse then the additional requirement for a path to the mobile home is 800mm giving a total width of 7 metres, for parking and access. As far as I can ascertain this is only possible at the middle plot of the site.

In terms of the use of gates these are generally disliked as they can result in the highway/track being obstructed whilst they are being opened or closed, but given the very low traffic volumes that can be anticipated on the cul-de-sac any impact would be insignificant to the free flow of traffic, it is however suggested that switchable/PIR (Passive Infrared Sensor) lighting should be installed at the access to highlight any vehicle stationary during darkness or inclement weather if permitted.

The location of the Septic Tank is noted, and the applicant needs to demonstrate that the occasional visit by a tanker for the removal of solids can readily be accommodated without obstructing the track. Swept path/tracked drawings showing how a tanker can access the site to turn and park clear of the track are required.

Foul 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 and, in this case, it is proposed to use a soakaway rather than a drainage field, which could not be accommodated on site. These matters would normally be addressed by Building Control and the Building Regulations, but as no dwellings will be built, I am unclear if the matter will ever be considered.

First looking at the guidance regarding the amount of wastewater created, British Water in their Code of Practice Flows and Loads – 4 publication suggests that 150 litres per person per day will be generated by a fully serviced Mobile Home.

Given the size of the caravan is not stated and does not appear to be controllable, each caravan is considered equivalent to a two-bedroom flat which should be designed for a minimum of 4 people or 600 litres per day. Given there are three caravan this equates to 1800 litres per day considerably more than the 400 to 500 litres per day suggested and note the daily flow rate at 150 litres is less than the 180 litres per person on the EA Foul Drainage Assessment Form submitted. The approach taken by the applicant seems to assume there will only be one person in each caravan but with three people that would result in 540 litres per day and with four, the applicant and his three children 720 litres. However, unless the site can be controlled so there is a maximum number of residents, guidance should be followed.

The form the applicant has submitted also describes how a septic tank drains to ground.

“Septic tank

A septic tank is a two or three chamber system, which retains sewage from a property for sufficient time to allow the solids to form into sludge at the base of the tank, where it is partially broken down. The remaining liquid in the tank then drains from the tank by means of an outlet pipe. Effluent from a septic tank is normally disposed of by soakage into the ground, provided that the disposal does not generate a pollution risk to surface waters or groundwater resources (underground water). The most commonly used form of soakaway is a subsurface irrigation area, comprising a herringbone pattern of land drains laid in shallow, shingle filled trenches. The soakaway drains should be located at as shallow a depth as possible, usually within 1 metre of the ground surface”

Here the irrigation system will be positioned below the trafficked area and requires expert knowledge on whether the system is practicable and legal given the proximity of the mobile homes. Note, due to the topography of the site considerable excavation will be required to install the drainage system so it falls away from the septic tank whilst the ground itself is rising.

The Building Regulations 2010 Drainage and waste disposal Part 2 Page 31, paragraph 1.30 indicates that no access roads, driveways or paved areas should be located within the disposal area and paragraph 1.29 that no water supply pipes or underground services to be located in the foul water disposal area.

The Septic Tank would have to have a minimum capacity of 4,140 litres, assuming the land is suitable for accommodating the wastewater

Thus, from the information submitted, I consider:

- The access to be inadequate and some sight lines should be provided 11m x 2.4m x 11m suitable for a speed of 10mph on the track and can be provided on site,
- No provision for parking a 3.5 tonne vehicle is shown and this has been suggested that this should be the maximum size vehicle to park on site, given the future ownership of vehicles and potentially the mobile homes cannot be controlled, there should be one van space and one car space per mobile home.
- The applicant has not demonstrated that a tanker can park off track and turn to service the septic tank.
- The proposed foul drainage system appears to conflict with the requirements of Building Regulations in terms of where the foul water can drain to, as the site is predominately driveway.
- It may be possible that the matters can be resolved with a new design, but it is suggested more details are required to ensure the viability of foul water disposal.

It should be noted that with small developments, their traffic impact will be minimal, but accumulatively there will become a point that it could be significant.

Concerns have already been raised on a previous application (20180163 same agent) regarding the single-track nature of Heron Hill Lane and the lack of any footway or lighting, but these were not considered to be an obstruction to development at appeal by the Inspector and as such will not be pursued here although they are still relevant.

Consultations - External

Kent County Council (KCC) Highways and Transportation Services

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.

KCC - West Kent Public Rights of Way Officer

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 Wildlife Trust

I have had a look at the citation for Happy Valley LWS and unfortunately, we are unable to send a copy of the of this, however below I have copied some text:

This diverse site 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. Both types of habitat are rich in orchids.

Grassland

The grassland along the northern part of the valley was once unimproved, but much has been sprayed and cleared of scrub, and some converted to arable. However, some areas rich in chalk herbs remain as a wide fringe to the arable, supporting such species as kidney vetch Anthyllis vulneraria and abundant common rock-rose Helianthemum nummularium. Some areas of pasture grazed by cattle or horses retain an interesting and varied suite of chalk-loving herbs. [...] Man orchid Aceras anthropophorum occurs frequently, and pyramidal orchid Anacamptis pyramidalis and common-spotted orchid Dactylorhiza fuchsii also occur. Greater butterfly-orchid Plantanthera chlorantha and bee orchid Ophrys apifera occur in an area sub-divided into small plots which contain the remains of old huts.

Woodland

*[...] Here the rich ground flora includes lady orchid *Orchis purpurea*, which only occurs in Kent and is scarce in the north-western part of the county. Other orchids such as fly orchid *Ophrys insectifera*, white helleborine *Cephalanthera damasonium*, greater butterfly orchid and broad-leaved helleborine *Epipactis helleborine* are common and widespread. A stand of stinking hellebore *Helleborus foetidus* occurs in the storm-damaged woodland on the western side of the valley. In the north, some badly storm-damaged woods are now colonised by dense chalk scrub.³⁴ ancient woodland indicator plant species have been recorded.*

Kent Wildlife Trust strongly object to any development that would see the permanent loss or degradation of habitat within designated wildlife sites. Local Wildlife Sites are protected under Section 15 of the National Planning System (NPPF, 2021) under paragraphs 174 and 180 which states planning permission should be refused if a development results in the significant harm to biodiversity. We would be happy to discuss the site further if you have any questions.

Meopham Parish Council

Objection due to inappropriate development in Green Belt. We recognise GBC might be minded to grant approval due to failure of the Borough Council to agree a traveller provision strategy. The Parish Council has concerns about this.

Environment Agency

We have assessed this application as having a low environmental risk. We therefore have no comments to make.

Non planning consents

Although we have no comments on this planning application, the applicant may be required to apply for other consents directly from us. The term 'consent' covers consents, permissions or licences for different activities (such as water abstraction or discharging to a stream), and we have a regulatory role in issuing and monitoring them.

Southern Water

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 Biodiversity Officer

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 (2021) and the Environment Act (2021), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 180 of the NPPF 2021, 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 2021, 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.

Natural England

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.

Kent County Council Heritage and Conservation

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.

Dickens' County Protection Society

Raises concerns that significant engineering works have been carried out in advance of this application.

Publicity and Representations

A site notice was displayed on site and notification published in a newspaper as development affecting a public footpath and under Article 15. In addition, 13 neighbouring properties were notified of the application with an overall expiry date of 15 July 2022

A total of **19** representations have been received **all objecting** to the application and the following is a summary of the objections

Impact on Green Belt and Planning Policy

- This is Green Belt land
- The national planning inspector said no further applications for gypsy sites would be permitted as the area is protected by greenbelt restrictions.
- The development would harm the openness of the Green Belt
- The development contradicts the rigorous (and considerate) planning requirements of the area required by Gravesham council, e.g., all the houses are of a similar style, with height restrictions etc.
- Development of this site would create a precedent leading to further destruction of Green Belt land
- A house would not be allowed in this area for Green Belt reasons and nor should it be allowed for static caravans

Traveller Need/Personal Circumstances

- There are just a few houses scattered about in this section of Culverstone Valley. Adding a third traveller site will be disproportionate in terms of the type of housing in this area.
- The latest traveller site was only allowed following appeal.
- The applicant's personal circumstances are unfortunate but given Green Belt status a decision should not be based on personal circumstances only, but on the merits of the individual plot application
- There are numerous traveller sites and caravan parks in the Kent area which are better suited to these types of dwellings

Environmental Impacts

- Additional noise and disturbance in a quiet area

Ecology Impacts

- Development is completely against nature
- The area is home to dormice, bats, slow worms and various types of wild orchid to name but a few species - presumably they are all over the hillside, including this plot.
- This section of the hillside is quiet, completely dark at night and undisturbed - a haven for wildlife.

Landscape and Visual Impacts

- This is an area of natural beauty
- The existing works on the site are unlawful, destructive and that have ruined the surrounding area of natural beauty
- Trees have all been cleared and fires burnt on the site since last year in breach of planning
- The landscape has been decimated by travellers previously
- The site has been extensively terraced with machinery
- The proposed development is unsuitable and also not in keeping with the other houses and the rural character of the area
- Already seen a vast area of trees cut down and covered with hard landscaping materials under the other permission
- The works have seen a public byway closed for months due to severe negative impact earthworks.
- Surrounding ancient trees are now being downed by high winds as no natural protection has been left in place
- The sites are not in keeping with the surrounding area or houses

Traffic and Highways

- Already too much traffic in the area
- The roads are poorly maintained roads that the authorities do not maintain them, and they are not adopted roads.
- It is not safe for more traffic to pass each other and for the emergency services to access in case of an emergency
- Heron Hill Lane will not cope with the additional traffic. It is already quite impassable as it is with a steep hill and countless potholes
- Heron Hill Lane is unsuitable for large vehicles or caravans

Impact on Utilities

- The impact to utilities is concerning. There are periods where water pressure is barely usable as the volume of people in the area has increased.

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 3 pitches, each with space for stationing of a mobile home, utility block and other associated development including permission for the re-profiling and re-contouring on the site and retention of retaining structures. 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 intention is that the site would be occupied by the applicant and two of his adult children. There are no details as to whether the son and daughter have any partners or children who would also be living on the site.

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 the applicant has lived on a mix of Traveller sites and in bricks and mortar housing. It goes on to state that the applicant deals in scrap metal, tree work, fencing and rubbish clearance and that he and his son and daughter have travelled widely, but that this reduced during and since the pandemic due to restrictions. No verifiable evidence has been provided regarding 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 and have been

looking to buy land to settle on for many years. 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 planning statement says that 'whilst they rely on their Gypsy-Traveller status it is not necessary to prove Gypsy-Traveller status as a matter of policy. Proving Gypsy-Traveller status is only necessary if it becomes necessary to include personal circumstances as a material consideration.' They go on to admit that the proposal is inappropriate development in the Green Belt and therefore the personal circumstances of the intended occupier will be an important material consideration.

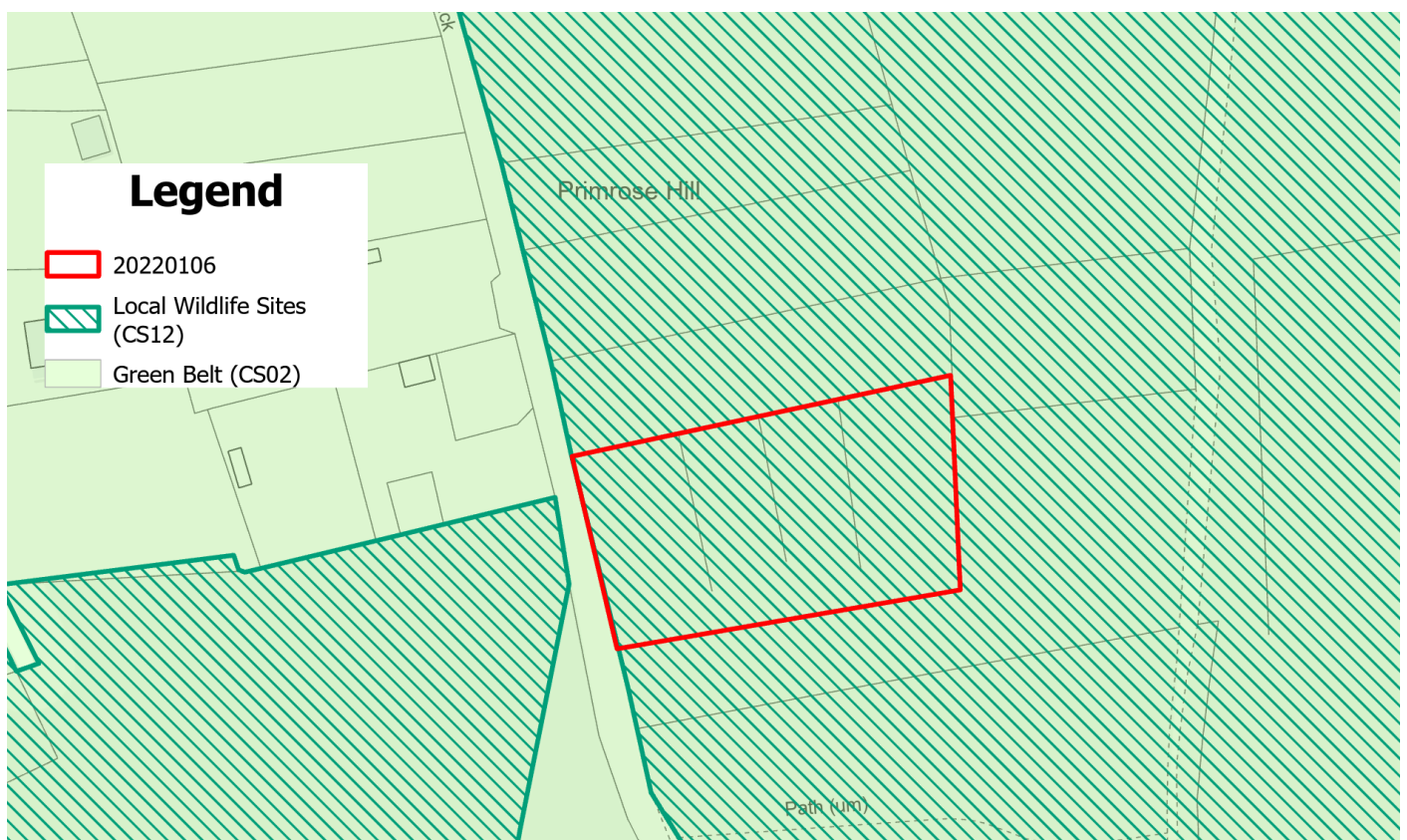
On 31 August 2015, the Department for Communities and Local Government published a planning policy statement on green belt protection and intentional unauthorised development. The policy came into force on that date and made intentional unauthorised development a material consideration to be weighed 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 applicant's ecology survey report, which does not appear to be authored by a qualified ecologist, advises that the site has been cleared of habitat and any ecological study now would not be able to record what was on the land prior to it being cleared of its habitat.

The extracts below, show the relationship between the application site and Ancient Woodland including 15m and 30m buffers to the Ancient Woodland. The following extract shows the site in relation to the Borough's Local Plan Policies Map. It shows that the 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 Planning Statement supporting the application states, that "the matters which support this application go beyond personal circumstances and unmet need both in Gravesham but also within the South East region. It also includes the extent of Green Belt in the district, the fact this is plotland area and a developed part of this Green Belt which offers a sustainable location for further residential development, failure of policy to address need and the absence of an up-to-date assessment, and the fact concerns to planning could be addressed by condition." 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 2021 (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. It is noted in the applicant's planning statement that there is no dispute over this.

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 applicant cleared the woodland at some point in 2020 and terraced the site to create 4 level platforms which step up the valley side. The terraces are retained by 2m high fencing to create 3 level pitches for stationing caravans. It is proposed to hard surface the access and terraced areas to enable at least 5 caravans to be stationed on the site, one on each of the upper 3 terraces and 2 touring caravans at the lower terrace adjacent to the track. Three utility rooms are proposed as well as parking for 2 vehicles on each of the 3 terraced pitches.

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.

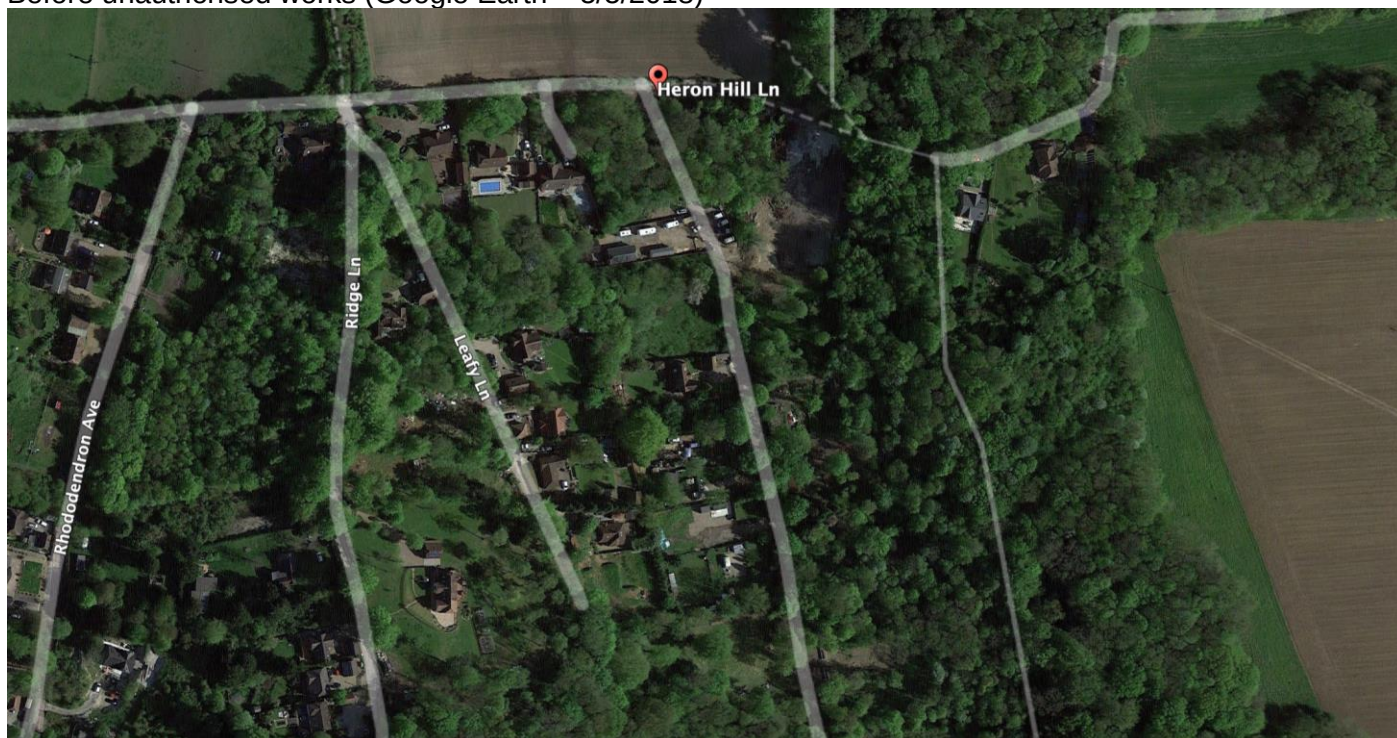
The proposal therefore fails to preserve openness and conflicts with the purposes of including land in the

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.

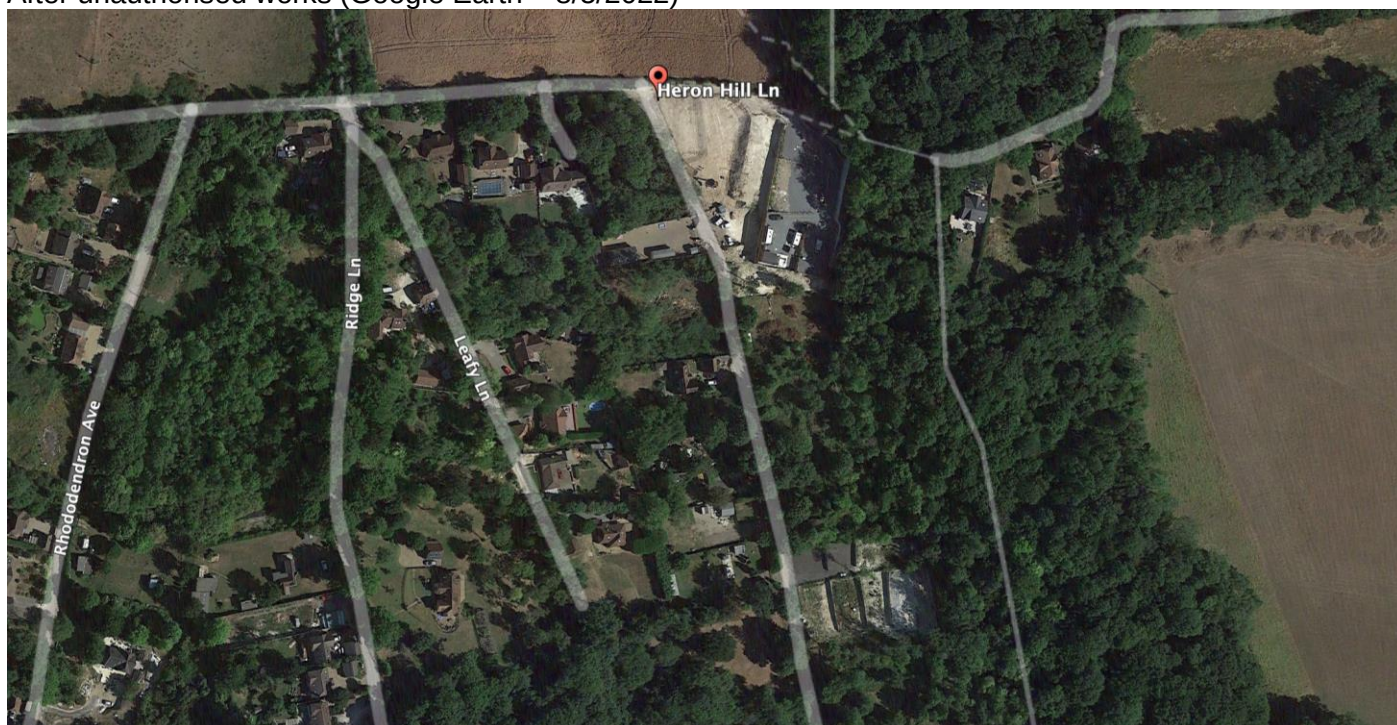
Impact on landscape character and the character and appearance of the area.

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.

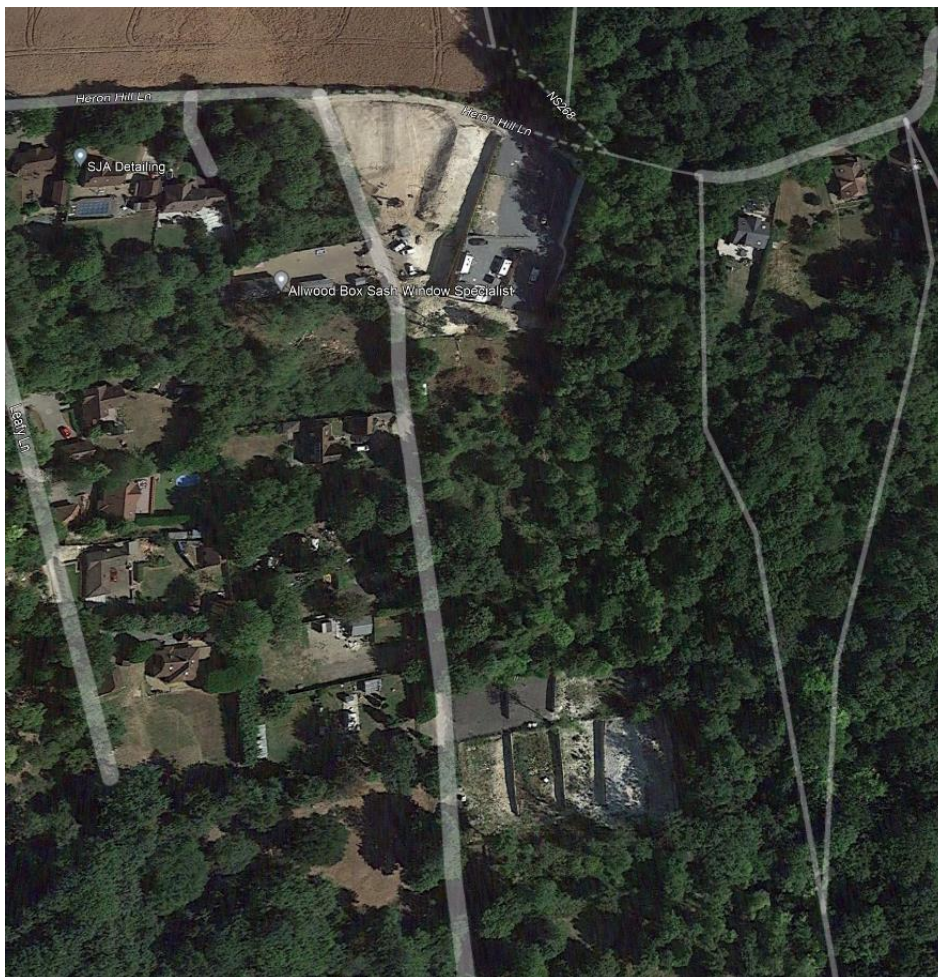
The site lies within the Havel Wooded Downs Landscape Character Area (LCA) defined in the Gravesham Landscape Character Assessment. The key characteristics of this LCA include:

- 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 on-site landscaping will be provided, including the provision of trees along the northern boundary and the site frontage, 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 lies in the Happy Valley Local Wildlife Site (LWS).

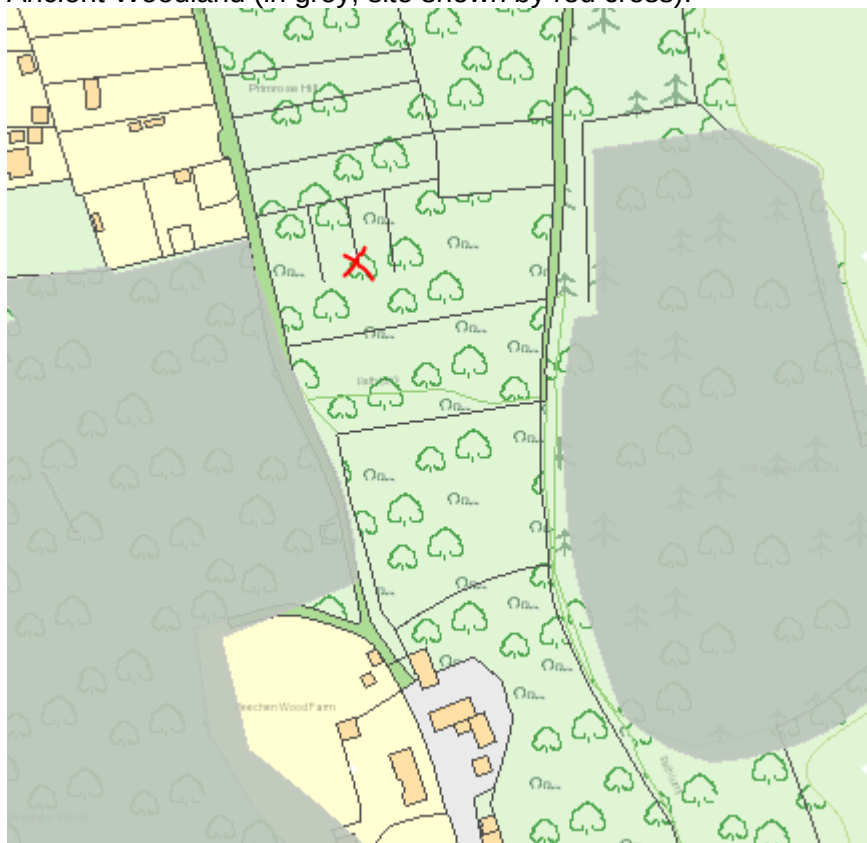
The whole LWS covers an area of 67.7 ha and extends southwards from Meopham Green in the north (see Map below) on both sides of the valley. The citation for this area states that the:

“...site (LWS) 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. Both types of habitat are rich in orchids”.

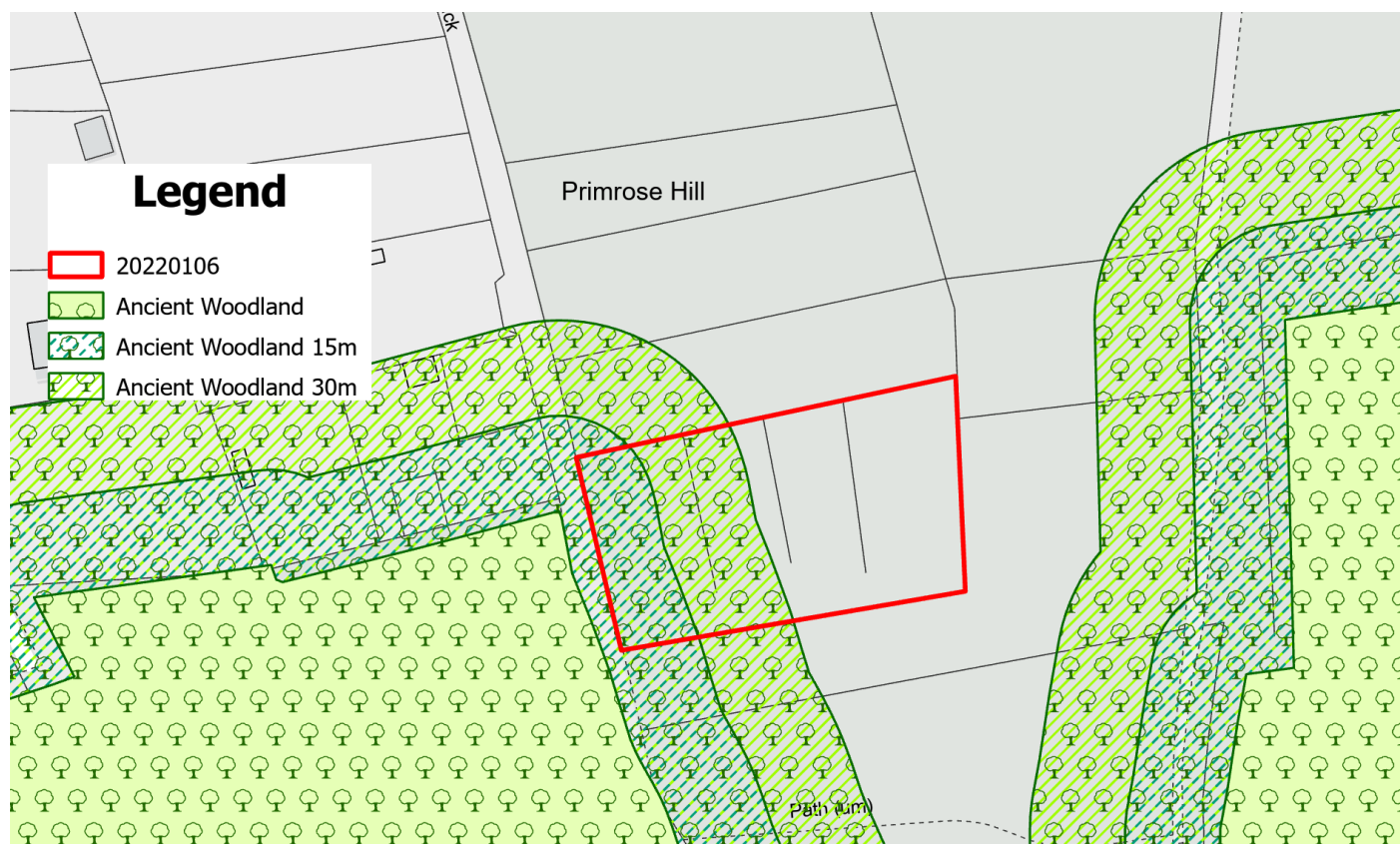
It is worth noting that there are 34 indicators of ancient woodland present within the Local Wildlife Site and a number of active badger setts, in addition to birds, foxes and rabbits. The map and citation for this LWS are appended for information.

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 was submitted with the application but was not prepared by a qualified ecologist in accordance with CIEEM guidance (<https://cieem.net/resource/guidelines-for-ecological-impact-assessment-ecia/>) and fails to consider the impact of the proposed works or the intended use on the biodiversity value of the site given its location within a LWS, the fact that it contained priority habitat, and that the frontage of the site lies within 15m of an area of ancient woodland. As raised by the KCC Biodiversity Officer, 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. The Ecological Report disregards these matters, arguing that the site was cleared prior to the submission of the planning application and as such has no biodiversity value, and the hedgerow planning proposed will provide some biodiversity gain.

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.

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 each mobile home and landscaping between each plot. The plots are provided for the extended family and the amenity space shown as available is sufficient. The Inspector in the Heron Hill appeal (APP/K2230/W/19/3223958 – appendix 1) was clear that, whilst the Council has residential standards, these are devised for dwellinghouses and therefore have limited relevance in the case of travellers sites.

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 2021.

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 and in this

case, it is proposed to use a soakaway rather than a drainage field, which could not be accommodated on site. These matters would normally be addressed by Building Control and the Building Regulations, but as no dwellings will be built it is unclear if the matter will ever be considered.

First looking at the guidance regarding the amount of waste water created. British Water in their Code of Practice Flows and Loads – 4 publication suggests that 150 litres per person per day will be generated by a fully serviced Mobile Home.

Given the size of the caravan is not stated and does not appear to be controllable, it is assumed each caravan is equivalent to a two bedroom flat which should be designed for a minimum of 4 people or 600 litres per day. Given there are three caravans this equates to 1800 litres per day considerably more than the 4 to 500 litres per day suggested and note the daily flow rate at 150 litres is less than the 180 litres per person on the EA Foul Drainage Assessment Form submitted. The approach taken by the applicant seems to assume there will only be one person in each caravan but with three people that would result in 540 litres per day. However, unless the site can be controlled so there is a maximum number of residents, guidance should be followed.

The form the applicant has submitted also describes how a septic tank drains to ground.

“Septic tank

A septic tank is a two or three chamber system, which retains sewage from a property for sufficient time to allow the solids to form into sludge at the base of the tank, where it is partially broken down. The remaining liquid in the tank then drains from the tank by means of an outlet pipe.

Effluent from a septic tank is normally disposed of by soakage into the ground, provided that the disposal does not generate a pollution risk to surface waters or groundwater resources (underground water). The most commonly used form of soakaway is a subsurface irrigation area, comprising a herringbone pattern of land drains laid in shallow, shingle filled trenches. The soakaway drains should be located at as shallow a depth as possible, usually within 1 metre of the ground surface”

Here the irrigation system will be positioned below the trafficked area and requires expert knowledge on whether the system is practicable and legal given the proximity of the mobile homes. Note, due to the topography of the site considerable excavation will be required to install the drainage system so it falls away from the septic tank whilst the ground itself is rising. The following are extracts from The Building Regulations 2010 Drainage and waste disposal Part 2 Page 31

Note the requirement of 1.30 that no access roads, driveways or paved areas should be located within the disposal area and 1.29 no water supply pipes or underground services to be located in the foul water disposal area. The Septic Tank would have to have a minimum capacity of 4,140 litres, assuming the land is suitable for accommodating the waste water.

Southern Water has been consulted and request that the Environment Agency are also consulted. They (the EA) have written to say they have no comments to make.

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.

Whilst not being a highway maintained at public expense the track leading to the site does serve several properties. It is therefore appropriate that suitable visibility splays should be provided at the access. Manual for Streets recommends that for a 10mph environment visibility splays of 11m x 2.4m x 11m should be provided and this can be achieved within the site with a central access point.

The parking space for a light goods vehicle (LGV) as defined by SPG4 is 7.5 metres long by 3.5 metres wide, whilst for a car it is 5 metres long by 2.5 metres wide in both cases the width is increased by 200mm when the parking space is adjacent to an enclosed boundary to provide the space that would be borrowed from an adjoining parking space or aisle when leaving or entering the vehicle. The plans submitted are therefore inadequate as they do not show appropriate parking. A condition is recommended to any approval that amended plans should be submitted showing space for light good vehicles.

In terms of the use of gates these are generally not considered appropriate as they can result in the highway/track being obstructed whilst they are being opened or closed, but given the very low traffic volumes that can be anticipated on the cul-de-sac any impact would be insignificant to the free flow of traffic, it is however suggested that switchable/PIR (Passive Infrared Sensor) lighting should be installed at the access to highlight any vehicle stationary during darkness or inclement weather if permitted.

It should be noted that with small developments, their traffic impact will be minimal, but accumulatively there will become a point that it could be significant. Concerns have already been raised on a previous application (20180163 same agent) regarding the single track nature of Heron Hill Lane and the lack of any footway or lighting, but these were not considered to be an obstruction to development at appeal by the Inspector and as such will not be pursued here although they are still relevant.

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 line with paragraph 9 of the PPTS, the Council commissioned consultants ORS to undertake a Gypsy and Traveller Accommodation Assessment (GTAA) in 2017 to identify the need for pitch accommodation in the Borough over the Local Plan Core Strategy period (i.e. up to 2028) and the plan period of the emerging Local Plan Core Strategy Partial Review, Site Allocations and Development Management Policies (up to 2037). The Council is aware of the PPTS guidance and that the GTAA is only required to assess the accommodation need of those Gypsies and Travellers (referred to as Travellers going forward) who meet the planning definition set out in Annex 1 of the PPTS. The needs of those households who do not meet the planning definition should be addressed as part of the wider general housing needs. However, in view

the Council's obligations under the Housing and Planning Act 2016 and the Equalities Act 2010, the 2017 GTAA assesses the accommodation needs of all Travellers, whether they meet the planning definition or not.

The outputs from the 2017 GTAA in terms of the accommodation needs of Travellers who met and those who did not meet the planning definition, as well as those where it could not be established whether they met the planning definition or not as they were either away at the time of the survey or refused to be interviewed, are set out below:

Table 1: Need for those meeting the PPTS definition by year

Years	0-5	5-10	11	11-15	15-20	Total
	2017-22	2022-27	2028	2028-32	2032-37	
	22	4	1	3	4	34

Table 2: Need for pitches where it is unknown whether they meet the PPTS definition by year

Years	0-5	5-10	11	11-15	15-20	Total
	2017-22	2022-27	2028	2028-32	2032-37	
	4	1	0	2	2	9

Table 3: Need for those not meeting the PPTS definition by year

Years	0-5	5-10	11	11-15	15-20	Total
	2017-22	2022-27	2028	2028-32	2032-37	
	5	2	0	2	2	11

Table 4: Total need for gypsy and traveller household plots over plan period

Status	Total
Meet Planning Definition	34
Unknown	0-9 (10%=1)
Do not meet Planning Definition	11

The accommodation need of the three groups of Travellers is broken down into 5-year periods up to 2028 to reflect the Local Plan Core Strategy Plan period and then projected forward to 2037 to reflect the plan period of the emerging partial review of the Local Plan Core Strategy. This is to reflect the guidance in the PPTS (paragraph 10) which requires local authorities to set targets and identify and update annually a supply of specific deliverable sites to provide 5 years' worth of sites against their locally set pitch target and identify specific developable sites or broad locations growth, for years 6 to 10 and, where possible, for years 11-15.

Based on the 2017 GTAA figures, the Council needed to identify sufficient land to accommodate 22 additional pitches up to 2022 rising to 26 pitches up to 2027 to meet the current and 5 years needs of those Traveller households who meet the planning definition. If provision is being made to meet the accommodation need of all Travellers, these figures would rise to 31 pitches up to 2022 increasing to 38 pitches up to 2027.

Supply

Progress has been made in delivering against need by granting planning permission for 10 additional pitches since 2017, 5 pitches on 3 existing Traveller pitches and 5 pitches on a new site at Heron Hill Lane to the north of the application site. There therefore remains an outstanding need to identify land to accommodate 16 pitches up to 2027 to meet the needs of those Travellers who meet the planning definition. This proposal would therefore make a contribution to meeting this outstanding need.

In respect of meeting this outstanding need for pitches, the Local Plan Core Strategy does not allocate site for Travellers. The examination Inspector said that Site Allocations and Development Management Policies would be addressed through a Part 2 Document. The Council is currently progressing a partial Review of the Local Plan Core Strategy which will update the need for pitches to meet identified accommodation needs for both those who meet the planning definition and those who do not. It is also preparing Site Allocations and Development Management Policies. Regulation 18 stage 1 and Stage 2 consultations have been undertaken with a Regulation 19 consultation proposed in September/October 2023.

The Regulation 18 Stage 2 Local Plan Core Strategy Partial Review and Site Allocations Document makes reference to Traveller site provision (page 31) and seeks comment on how and where such need should be met. It did not set out a strategic approach or identify potential site allocations to meet identified need. While general comments were raised against releasing land designated as Green Belt for development, no specific comments were raised as to how and where such need should be met. As such this document can be given limited weight in the consideration of this application.

The Development Management Policies Document contains a proposed policy RES 8 entitled "Proposals for stationing caravans for Gypsies and Travellers on unallocated sites". The policy provides some general criteria that apply to all proposals for Traveller accommodation and specific criteria for applications on unallocated sites in the Green Belt. Three objections have been received to the policy wording which is currently being updated prior to the Regulation 19 stage consultation. As such limited weight can be afforded to this policy.

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.

The Planning Statement states that the applicant grew up on a site outside of London and when the site was refurbished, by his own admission, moved into housing. He then settled in a house with his partner and had three children. They separated and he gained custody of the three children. He was offered a Council house but moved to a traveller site where he stayed for 12-13 years and the children attended local schools.

Following on from the death of the site owner, the applicant was asked to move on. The applicant and his two adult children (son, 21 and daughter, 20) were living together on the driveway of a house owned by an elder child of the applicant, however this elder child now resides on a traveller site and the family are staying on the driveway of a friend's house.

The planning statement then goes onto detail the work of a Mr Roberts, however it is assumed this is a mistake as this is not the applicant's name. If this is the applicant then the work listed and the locations the work has been undertaken would support 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. The applicant's agent has advised that in

their experience, the Planning Inspectorate do not expect to be shown documentation to evidence a nomadic habit of life.

It is also noted that the applicant works with his two older sons but the Statement refers to a son and daughter that will live on site and the eldest daughter living on a different traveller site. It is not clear if the applicant has more than three adult children. The agent was asked to clarify these points and confirmed that the applicant has 13 adult children but he is seeking to occupy the sit with his two youngest adult children. There are no children under the age of 18 which would be impacted by this planning application.

Since the application has been submitted the applicant's agent has confirmed that the applicant is in ill health having suffered two heart attacks and has attended hospital. He uses a friend's address to register with a doctor and take medication. No evidence has been supplied to corroborate this however, regardless of this, this information is not a material consideration in determining this application.

As stated in the Planning Statement 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 agrees that the development is inappropriate and therefore the personal circumstances of the intended occupiers are an important material consideration.

The applicant cites para. 24 of the PPTS as 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 Planning Statement supporting the application is clear that 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.

The following is the summary of the Planning Statement:

The matters which support this application go beyond personal circumstances and unmet need both in Gravesham but also within the SE region. It also includes the extent of Green Belt in the district, the fact this is a plotland area and a developed part of this Green Belt which offers a sustainable location for further residential development, failure of policy to address need and the absence of an ~~uptodate~~ need assessment, and the fact concerns to planning could be addressed by condition. To this must be added the best interests of the child to which no lesser weight is to be attached. In other words, the best interests of the child balance out the substantial weight attached to inappropriateness.

When carrying out the balancing exercise I am of the opinion these other considerations clearly tip the balance in favour of this development. Permission is sought on a permanent basis for any Gypsy Traveller and it is considered that there are good reasons to support this. This site would meet a need for an extended family who have no where to live and who have strong connections to Kent. The proposal would help address a need that currently exists in this part of Kent. There are no alternative pitches that are available for these families. However, in the alternative the family would accept a temporary / personal permission.

It is argued that the overall balancing exercise supports this development. If this is accepted, refusal of planning that can be considered acceptable on the basis of very special circumstances, would fail to foster good relations between the applicants and the settled community and would offend the principles of the Equality Act and PSED. This adds further weight in support of permission.

At no point in the application are any children mentioned other than the adult children that will share the site with the applicant. 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 applicant's agent states that 'as a matter of law...in all decisions concerning children, their best interest must be of primary importance. That principle applies to planning decisions'. This is not disputed but, as stated by the applicant's agent, no weight can be attached to the 'Best Interests of the Child'.

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 applicant's agent has provided details of various appeals that have been allowed where authorities have a large amount of Green Belt land and who have unmet need in terms of Travellers Sites. Whilst it is accepted unmet need is a material consideration and weight must be given to it, in each of the appeals there were also other deciding factors. A summary is listed below:

Heron Hill – factors that weighed in favour – unmet need, lack of alternative sites, failure to plan for Gypsy and Travellers and absence of 5-year supply. These merited significant weight. The applicant argues that the Inspector attributed similar weight to unmet need as they did to the needs of a child however the Council do not agree. The best needs of the child were attributed very substantial weight in favour and access to school and healthcare was given substantial weight. Considerable harm to openness and limited harm to the Green Belt attracted substantial weight against the proposal. Character and appearance of the area and biodiversity attached moderate and limited moderate weight respectively. It is the Council's view that the best interests of the child pushed the balance to an approval which is not a consideration for this application.

White Post Farm would have been an approval if it wasn't for SAMMS – the Inspector attached significant weight to personal circumstances and best interests of the child. Again, this is not the same situation as the current application.

Bromley appeal – this had permission for a pitch already and was an allocated site. It was refused on overdevelopment and visual amenity. The site had already been assessed as able to accommodate two further pitches and therefore overdevelopment was not an issue (inset from the Green Belt).

South Bucks appeal – Green Belt but previously developed land. Intensification from one small family dwelling to accommodating four families. Marginal harm to the openness of the Green Belt was given substantial weight. Some detriment to character of the area by visual clutter, relative density and inevitable traffic. Some detriment to biodiversity but both these issues could be mitigated by condition and therefore

moderate weight was given to them.

There were no children therefore the UN convention in this respect was not directly engaged. The Council acknowledged no 5-year supply and this was considered a significant material consideration for temporary consent for development not in the Green Belt (not in this case). Substantial weight was given to Green Belt harm from inappropriateness, loss of openness. Moderate weight given to character and biodiversity. Restrictions by condition, previously developed land, beneficial result from the removal of two buildings all considered to minimise harm. Unmet need and 87% Green Belt was considered a significant consideration. Considerate weight given to compliance with access to highway, no flood issues, residential amenity etc. Significant weight given to personal health issues.

Stafford BC appeal – site was already in use but had a temporary consent. There was a modest spatial effect on openness. Limited effect on openness. Significant weight given to definitional harm. The Council had no 5-year supply – the Inspector said unmet need should not be ignored. The Council consistently failed to address the lack of sites. Failure to have due regard to its duty under the Public Sector Equality Duty as set out in s149 of the Equality Act 2010 all found to me significant weight to allowing the appeal. There were no personal circumstances.

South Gloucestershire Council – this was an appeal against the refusal of removal of conditions that tied the use of the site to particular people. This was a Gypsy and Traveller Site but the family the permission related to had moved on. Permission was granted under very special circumstances (personal circumstances). Limited weight was given to the impact on openness. Substantial weight was given to policy failure. There were children involved and the Council was found to break Article 8 of the Human Rights Act. Significant weight was given to bringing the site back into an authorised use and added 5 pitches. Significant weight was given to the fact the borough was 75% Green Belt and therefore a quantum of sites needed to be in the Green Belt. Substantial weight was given to unmet need. Moderate weight was given to the site being located on the edge of a settlement, there being no impression it was isolated for the rest of the community and an immediately deliverable site. Significant weight was given to the needs of the children.

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 should always 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, 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 with 3 pitches 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 appellants 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 2021, 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 Webster	Team Leader:	Richard Hart
----------------------	-------------	---------------------	--------------

Signed:		Signed:	<i>R Hart</i>
Dated:	3 July 2023	Dated:	4th July 2023