

2.2 REFERENCE NO - 25/502451/FULL		
PROPOSAL - Retention of existing 8 plot gypsy traveller site, each with 2 mobile homes and 2 touring caravans and associated day rooms, new access, driveway, hard standing, package treatment plants, boundary fencing and landscaping (previously granted at appeal reference APP/V3355/W/20/3254539) (retrospective).		
SITE LOCATION - New Acres, Spade Lane, Hartlip, Kent ME9 7TT		
RECOMMENDATION Delegate to the Head of Planning to grant planning permission subject to appropriate conditions, with further delegation to the Head of Planning / Head of Legal Services (as appropriate) to negotiate the precise wording of conditions, including adding or amending such conditions as may be necessary and appropriate.		
APPLICATION TYPE – Full Major		
REASON FOR REFERRAL TO COMMITTEE - The recommendation of Officers is contrary to the objections received from Hartlip Parish Council and they have requested that, in that circumstance, the application is determined by the Council's Planning Committee. The application has also been called-in to Planning Committee by Cllr R. Palmer.		
Case Officer – Christian De Grussa		
WARD Hartlip, Newington And Upchurch	PARISH/TOWN COUNCIL Hartlip	APPLICANT Mr Frank Mongen AGENT Perfect Pitch Planning Ltd
DATE REGISTERED 25 July 2025		TARGET DATE 08 April 2026
BACKGROUND PAPERS AND INFORMATION: The full suite of documents submitted and representations received pursuant to the above application are available via the link below: - https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SXSH6STYLDL00		

1. SITE LOCATION AND DESCRIPTION

- 1.1 In terms of its overall setting, the application site is located within a flat area of land bound by the A2, Spade Lane, South Bush Lane and Meresborough Lane. Spade Lane contains a few dispersed houses on its eastern side and South Bush Lane has sporadic housing on both sides. To the south is Meresborough Lane which also has sporadic housing to each side. More significant development exists adjacent to the A2 including a car business and a storage facility. Notwithstanding the presence of the development on the A2, the other roads are rural in nature, being generally single-track and surrounded by open land.

- 1.2 The site extends for some considerable depth towards South Bush Lane (approximately 289m). The site measures 1.6 hectares in area.
- 1.2. The site has been used for the siting of caravans, with this use being lawful for a three-year period up to 8th June 2025 as a result of a planning permission granted following an appeal against the refusal of planning application 19/503694/FULL as detailed below. That permission enabled the occupation of the site by persons who met the definition of Gypsy and traveller that is set out at Annex 1: Glossary of Planning Policy for Traveller Sites. That was enforced by condition 1 of the applicable permission. Condition 3 of that permission limited the number of caravans at the site to 16 and the number of plots to 8.
- 1.3. Under the terms of the permission, a pre-existing access from Spade Lane was required to be replaced. This was detailed within approval of details application 22/503798/SUB. That approved access appears to have been implemented.
- 1.4. An earlier permission, allowed at appeal under the terms of application 16/506942/FULL authorised a comparable use between 15 December 2017 and three years after that date.
- 1.5. The site is enclosed by and contains means of enclosure that range from timber fences, brick walls/columns, and gates.

2. PLANNING HISTORY

- 2.1. SW/13/1485 - Change of use of the land to a residential gypsy caravan site comprising two pitches, including the laying of hardstanding, new access, associated access track and amenity block. Refused for the following reasons:

- Unsustainably located within the open countryside
- Harm to the visual amenities of the surrounding area
- Harmful impact on residential amenities as a result of noise and activity.
- Unjustified loss of best and most versatile agricultural land

An appeal against the refusal was dismissed at appeal for the following reasons:

- The proposal would not promote the use of sustainable modes of transport.
- Harm to the character and appearance of the surrounding landscape
- Harmful loss of best and most versatile agricultural land
- In combination, the proposal would not represent a sustainable form of development.

- 2.2. 16/506942/FULL - Proposed private traveller site comprising 8 pitches, each with a mobile home, touring caravan and utility room together with access road. Refused for the following:

- Harm to the character and appearance of the surrounding landscape.
- Unacceptable loss of best and most versatile agricultural land.

- Unsustainably located within the open countryside causing a reliance on journeys by unsustainable modes of transport.
- Detrimental to highway safety due to the inability to provide adequate visibility splays at the access.

The above application was subsequently allowed at appeal but only for a time limited period of three years so that it could be reassessed against an updated supply of sites for the Gypsy, Traveller and Travelling Showpeople population across Swale Borough. At that time, the Inspector found harm to arise on the grounds of:

- The harm to the character and appearance of the area was unacceptable and greater than was identified in the earlier appeal decision which addressed a smaller and more compact development.
- The loss of agricultural land.

2.3. 19/503694/FULL - Change of use of land to an 8 pitch gypsy traveller site, with associated day rooms, new access, drive way, hard standing, package treatment plants, boundary fencing and landscaping (part retrospective). Refused for the following:

- Harm to the visual amenities of the surrounding area and the character and appearance of the countryside
- Harmful loss of best and most versatile agricultural land
- Recreational disturbance to the Swale Special Protection Area

The above application was subsequently allowed at appeal on 8th June 2022 but only for a time limited period of three years so that the residents can have opportunity to find an alternative site and so that opportunity exists for further sites to come forward. Key points within the appeal decision are considered to be as follows:

- *“The site is highly visible from the surrounding area, including from the public footpath which runs across the open land to the north. Within the predominantly open and rural landscape, the existing site appears prominent and discordant.”*
- Any landscaping proposed to soften the appearance of the site would have to “be so significant to be effective that it would, in itself, appear incongruous within the area.”
- Around 70% of the land in the Swale Borough is BMV agricultural land and other land is constrained and so it would be difficult to locate on land that is not within this definition. However, in the absence of evidence of a search of such sites, a policy conflict was identified and this was given moderate weight.
- The third reason for the refusal of the application, related to the Swale Protection Area, was addressed prior to the appeal hearing.
- At that time, a 3.5 year supply of Gypsy and traveller sites existed but the ‘windfall’ approach that is contained within Policy DM8 was providing sites in excess of the GTAA identified need. However, the inability to demonstrate a 5 year supply of sites was considered to weigh in favour of the proposal.
- Regard was had to the personal circumstances of the applicants and occupiers of the site, which were given significant weight.

- Moderate harm was attributed to the deliberate unauthorised nature of the development.
- The harm identified was considered to outweigh the benefits and, as such, permanent permission should not be granted. However, it was found that temporary permission should be granted as this *“would be an acceptable time period and would enable the residents and the local situation to gain an opportunity for alternative sites.”*

3. PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the use of the site for the purposes of providing of 8 Gypsy and traveller pitches, each with space for 2 mobile homes, 2 touring caravans, and associated amenity/utility blocks. The description refers to the retention of the existing access, driveway and hard standing. Package treatment plants, boundary fencing and landscaping are also features of the development.
- 3.2. This application follows the lapsing of the temporary permission granted under the terms of the abovementioned 2019 application on the 8th of June 2025.

4. REPRESENTATIONS

- 4.1. Two rounds of consultation have been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. During the first round 8 letters of representation objecting to the application were received. Excluding duplicates, 9 letters of representation objecting to the application were received in relation to the second consultation. Concerns/ comments were raised in relation to the following matters:

First Round Comments	Report reference
Detrimental to highway safety and impact on the free flow of traffic, contrary to Policy DM6 and ST1.	Section 7.7
Exacerbation of inadequacy of local infrastructure including highways, education and health provisions.	Sections 7.7. At eight pitches, the development is not of a scale that would derive education or health contributions.
Harmful visual impact to the surrounding area	Section 7.3
Lack of consultation and insufficient details	Sections 4.1 and 4.2 address consultation. Sufficient details are considered to have been submitted.
Overdevelopment of the plot, with double the number of caravans.	Sections 7.2.34 and throughout.
Conditions on former permission ignored including a period of time where a much higher number of caravans was present.	Planning practice guidance states that development should not be refused if any unacceptable matters can be made acceptable through conditions. The likelihood of breach is not a factor.

Overlooking and lack of privacy has necessitated the erection of boundary fencing. Noise, lighting and disturbance are also harmful impacts of the development. The development therefore conflicts with policies E1, DM14 and DM19.	Section 7.4
Unacceptable loss of agricultural land	Section 7.2.30 to 7.2.33
The site has been occupied by persons that do not meet the definition of Gypsy or Traveller.	Section 7.2.20
Unsustainably located in countryside away from all facilities required for day-to-day living.	Section 7.2.4
Absence of utilities and unacceptable living conditions, contrary to policies H4 and DM19.	It is known that securing an electricity connection is subject to planning permission being granted. Other provisions would be able to be made for the accommodation to be adequate for the intended occupiers.
Accusations made of anti-social, unneighbourly and other unacceptable or unlawful behaviour.	Officers are not in a position to comment on these matters and will make a recommendation based on the consideration of planning merits.
Removal of trees	No tree removal is proposed.
The personal circumstances of the applicant's should not outweigh the identified harms.	Sections 7.2.19 and 7.11.9
The effect of the development on the Special Protection Area should be mitigated through a SAMMs payment.	Section 7.6
Biodiversity Net Gain should be sought.	See paragraph 7.6.18
Conflict with the Settlement Strategy and policies ST3, CP4, DM19 and DM25 of the Local Plan.	Policy DM25 addressed Important Local Countryside Gaps, which the site is not within. Policy DM19 addresses sustainable design and construction and therefore does not relate to landscape impacts or locational sustainability as suggested by the objector.
Precedent of supporting unauthorised development.	All applications should be considered on their own merits and it is noted that the planning system allows for breaches to be regularised.
Cumulative Impacts	Other Gypsy and Traveller pitches are not considered to be determinative in the assessment of this case.
Permanent use has never been intended.	The history of the site demonstrates that permanent occupation has never been accepted before.

Second Round - Additional Comments	Report reference
In terms of the definition of sustainability, the development fails to meet the economic or social objectives, conflicts with the environmental objection and does not meet the needs of future generations.	Considered throughout, with an assessment of the overall benefits concluded in the planning balance. In summary, no economic or environmental benefits are identified but the provision of Gypsy and traveller pitches can be considered to accord with the social objective and be a benefit.
It is questioned whether relevant permits have been obtained from the Environment Agency	This is a matter for the Environment Agency.
The accommodation at the site has been advertised for rent.	Section 7.2.20
The attendance at local schools by children residing at the site should not be construed as evidence of community integration.	Section 7.2.8
Evidence exists that demonstrates that the residents have used other addresses.	The recommendation made is on the basis of the use of the site rather than as a personal permission.
The development dominates the nearest settlement.	Section 7.2.9
It is unclear if the personal circumstances of the applicant's remain the same as set out before.	The recommendation made is on the basis of the use of the site rather than as a personal permission.
Increased flood risk.	Section 7.8
Electricity generators at the site are causing noise disturbance.	Section 7.4 and comment above about supply of electricity.
Other sites have been occupied for comparable uses without planning permission.	This application is to be considered on its own planning merits.
The Council should not be 'worn down' into granting planning permission.	The recommendation has been made on the basis of the evidence before Officers.
The use of the site (including the burning of materials) conflicts with the element of policy that requires for healthy lifestyles to be enabled through the provision of open space and sports facilities.	Environmental protection is addressed as far as falls within the scope of planning. However, this is not and should not be in the context of policies that relate to open space and sports facility provision.
The applicant stating that the site could enlarge should be taken as an indication of the applicant's intentions.	The application shall be considered on its merits as submitted. The comment of the applicant was made in response to the policy requirement that is set out within Policy DM6.
In addition to policies cited above, the development conflicts with policies DM10, DM24 and DM31	All applicable policies have been considered.

The welfare of all children should be considered, including those resident at the site and those resident in the area. In particular, it has been stated that children off-site were affected by an unofficial electricity supply to the site.	The living conditions of existing residents is considered at Section 7.4
The decision of the previous Inspector to only grant temporary permission should carry weight, especially as circumstances have not materially changed.	That decision is considered throughout.
Previous conditions and limitations have not been complied with or enforced.	Planning practice guidance states that development should not be refused if any unacceptable matters can be made acceptable through conditions. The likelihood of breach is not a factor.
Harm to Green Belt.	There is no Green Belt in the Swale Borough.
Irreversible harm has already been caused that is contrary to the landscape protection objectives of the local plan.	Section 7.3

4.3. Hartlip Parish Council object to the application on the following grounds:

First Round Comments	Report reference
None received.	N/A
Second Round - Additional Comments	Report reference
Circumstances have not materially changed since permanent planning permission was previously not granted at appeal.	A full assessment of current circumstances is provided.
The former temporary permission should not be made permanent.	Noted.
The planning application and enforcement history should be reason to find the development unacceptable, as it demonstrates inadequate site management and compliance with conditions.	A full assessment of current circumstances is provided, a former decision can be informative but does not have to be binding.
Accommodation at the site has been advertised for rent.	The recommendation is based on the evidence of need that exists. Occupation can be enforced by condition.
Future expansion and intensification of the site should be considered, including the adverse visual impacts and impacts on living conditions. Landscaping would	Section 7.3. The application has to be considered as submitted.

not address the visual impacts and cannot be relied upon.	
The access arrangements to the site are not acceptable if the use of the site intensifies.	Section 7.7
Enforcement and monitoring of the site has proven difficult and should be more robust.	This view is noted.
The location of the site is not sustainable.	Section 7.2.4

5. CONSULTATIONS

- 5.1. Set out below is a summary of matters raised in representations, with the comments reflecting the final position of the consultee. There have been two rounds of consultation for most consultees.
- 5.2. **KCC Highways** – No objections, subject to conditions.
- 5.3. **KCC Flood and Water Management** – No objection subject to condition.
- 5.4. **KCC Minerals and Waste** – No objections.
- 5.5. **Mid-Kent Environmental Protection** – No objection.
- 5.6. **Environment Agency (EA)** – No objection subject to conditions

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1 Delivering sustainable development in Swale
 ST3 The Swale settlement strategy
 ST5 The Sittingbourne Area Strategy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP7 Conserving and enhancing the natural environment – providing for green infrastructure
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM10 Gypsy and Traveller Sites
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM24 Conserving and enhancing valued landscapes
 DM28 Biodiversity and geological conservation
 DM31 Agricultural land
 DM34 Scheduled Monuments and archaeological sites

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Parking Standard Supplementary Planning Document, 2020.

Gypsy and Traveller and Travelling Showperson Accommodation Assessment

Housing Economic Land Availability Assessment (HELAA) 2025

National Planning Policy Framework (the NPPF)**National Planning Practice Guidance (NPPG)****MHCLG Planning policy for traveller sites (PPTS)****Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.****7. ASSESSMENT**

7.1. The main considerations involved in the assessment of the application are:

- Principle
- Landscape and Visual Effects and Character and Appearance
- Living Conditions
- Archaeology
- Ecology
- Transport and Highways
- Sustainable Design and Construction
- Flood Risk, Drainage and Surface Water
- Other Matters

7.2. Principle

7.2.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.2.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Settlement Strategy

7.2.3. Policy ST3, supported and referred to by Policies ST1 and DM10, states that “*at locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.*”

7.2.4. The site is within the countryside and, setting aside the assessment of whether the development would accord with the NPPF until the planning balance section below, it

is clear that the development does not “*contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.*” There is, therefore, a conflict with Policy ST3 and, in turn, ST1(4) which requires development to accord with the Local Plan settlement strategy. It is noted that a consequence of the development being in this location is that the occupiers are distant from shops, services and other facilities and, as such, there would be a dependency on private modes of transport. This has not, however, been a previous successful reason for the refusal of the application. In this regard it is noted that the Inspector for the 2017 appeal, following the refusal of the 2016 application, set out at paragraph 25 “*that the site location, so far as it relates to the need to travel by private car, does not weigh for or against the development.*”

Policy DM10

7.2.5. Policy DM10 states that the Council will grant planning permission for sites for Gypsies, Travellers and Travelling Show People, where it is demonstrated that proposals:

1. Are in accordance with Policy ST3 by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application, unless:
 - a. there are exceptional mitigating and/or personal circumstances where the applicant has demonstrated that a particular site is required to meet their needs and where there is no overriding harm to the locality; or
 - b. where required to meet an affordable housing need either via a rural exception site in accordance with Policy DM9 or specific allocation; or
 - c. the proposal is for an extension to, or stationing of, additional caravans at an existing site.
2. Can establish that the applicants have previously led a nomadic lifestyle, the reasons for ceasing a nomadic lifestyle and/or an intention to return to a nomadic lifestyle in accordance with Annex 1 of Planning Policy for Traveller Sites (2015);
3. Can achieve an integrated co-existence between all communities;
4. Are of a scale appropriate to meet the accommodation need identified and not introduce a scale of development that singly or cumulatively dominates the nearest settlement or causes significant harm to the character of an area, its landscape, or the capacity of local services;
5. Can, where appropriate, accommodate living and working in the same location, either through a mixed-use site or on land nearby, whilst having regard to the safety and amenity of occupants and neighbouring residents;
6. Cause no significant harm to the health and wellbeing of occupants or others by noise, disturbance, vibration, air quality or other circumstances;
7. Cause no significant harm to the Area of Outstanding Natural Beauty, national/local landscape or biodiversity designations and other natural or built environment that cannot be adequately mitigated;
8. Provide landscaping to enhance the environment in a way that increases openness and avoids exclusion and isolation from the rest of the community;
9. Provide for healthy lifestyles through open space, amenity areas for each pitch and play areas;

10. Would be safe from flooding by meeting both the exceptions and sequential tests in accordance with national policy and Policy DM22;
11. Achieve safe and convenient parking and pedestrian and/or vehicular access without unacceptable impact on highway safety; and
12. Where appropriate, include visitor or transit pitches and/or sufficient areas for future expansion. Planning conditions may be used to limit the length of time that caravans can stop at transit sites and on visitor pitches.

- 7.2.6. Points 2, 6, 8, 11, are considered further below within this report and, considering the application site's location outside of a designated flood zone or Area of Outstanding Natural Beauty (now National Landscape) or any other designated landscape areas, there would be no conflict with points 7 or 10.
- 7.2.7. With respect to criteria 1, as will be established from the commentary that is provided below in respect of the need for Gypsy and traveller accommodation, the Council is not able to demonstrate an adequate supply. Policy DM10(1) sets out with policy ST3 (the Council's Settlement Strategy) *"by reference to the deliverability of potential or existing sites at each settlement tier(s) above that proposed by the application."* In this respect, having regard to the below commentary in relation to the need and supply for sites of all types of residential accommodation it is considered that it would be highly unlikely that there would be any potential or existing sites available at a settlement tier above *"locations in the open countryside."* Consequently, it is not considered that the development conflicts with that element of Policy DM10.
- 7.2.8. The 2019 delegated report identified "a pattern of behaviour which is unlikely to achieve an integrated co-existence between all communities". Consequently, the development was considered to conflict with policy DM10(3) at that time. The applicant has set out that children living at the site attend local schools and that the current occupiers have become integrated by virtue of the amount of time they have been present at the site. Whilst the case of the applicant is noted, there is no evidence available that corroborates the content of the submitted statement, and it is noted that counter claims have been made within the objections received. Therefore, in the absence of evidence to support the case of the applicant, it is considered that the application should be determined on the basis that it has not been demonstrated that the development accords with policy DM10(3) of the Local Plan 2017 and the NPPF. This is considered to be a sound stance to take, particularly in the context that the site is distant from most other residences and detached from any of the identified settlements which gives the impression of detachment even if some integration does occur.
- 7.2.9. In respect of DM10(4), the scale of the development inevitable means that it has a noticeable impact on the local area and, as a group of 8 pitches, the content of the site covers a much greater area than the sporadic housing of the area. However, the test of the policy is whether the development dominates local settlements and, in this respect, it is not considered that the site is dominating of the local settlements of, Hartlip, Newington or Rainham or any intervening village. The site is sufficiently distant from all such settlements to not have a dominating effect. No objection has been previously raised to the development of the site on this ground, by the Council or the Planning Inspectors that have determined appeals, and it is not considered that there is now reason to reach a different conclusion on this matter. At paragraph 26 of

the 2017 appeal decision, the Inspector had regard to the local community and found that it would not be dominated by the development.

- 7.2.10. In respect of DM10(5), the desire to enable “working” at a site has to be balanced with the need to protect the amenities of an area. In this case, there would be space for vehicles associated with some industries to be parked without obstructing the main highways. However, it would not be desirable in the interests of living conditions and the character of the area for the site to be used for extensive on-site work or a base for commercial work. Consequently, conditions are suggested to control this matter. It is noted that it was previously established, within the delegated report for 19/503694/FULL, that the scheme could provide for scope for living and working to both occur from the site. There is no reason to reach a different conclusion in this respect and, as such, the development is considered to accord with that element of policy DM10.
- 7.2.11. In terms of open space and amenity areas to enable healthy living, it is considered that each pitch would be of sufficient size to enable adequate outdoor space to be provided. This is the equivalent of gardens rather than formal open space and, from this basis whilst the policy terminology and the reference of an objector to the provision of public open space and sport facilities is noted, it is not considered that an objection should be raised as adequate outdoor space would be provided for residents of the site.
- 7.2.12. With respect to criteria 12, no transit or visitor pitches are proposed. The policy only requires this to be addressed “where appropriate” with no indication of what that should mean. In this instance, noting the objections raised by interested parties on the grounds that the movement of caravans has blocked the surrounding highways, it is not considered that this would be a welcome location for visitor or transit pitches, where the turnover at a site would be more frequent, to be provided. In terms of future expansion, the applicant has advised that this would be possible and, as a matter of fact, this is true as there are no physical barriers to the site being extended or intensified. However, this is not to say that such expansion or intensification would be found acceptable and it is essential that the application is determined on the basis of the application that has been submitted rather than some alternative approach that might be taken in the future. In this context and subject to the proviso about future expansion not necessarily being found acceptable even if it is possible, no objection is raised on the grounds of criteria 12 of policy DM10.

Planning Policy for Traveller Sites (PPTS)

- 7.2.13. Policy H of The PPTS states that 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.

- 7.2.14. Each of these criteria are considered elsewhere or can be taken to indicate that regard need not be had to certain factors. For example, there is no requirement for the applicant to have a local connection.
- 7.2.15. The PPTS goes on to state that *“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”*
- 7.2.16. It is noted that the development conflicts with the first part of the abovementioned policy as the site is in the open countryside, away from existing settlements and outside areas allocated in the development plan. For reasons that are set out elsewhere, it is not considered that the development dominates the nearest settled community. Moreover, given the number of pitches and occupiers, it is not considered that the use of the site would cause undue pressure on local infrastructure. In this regard, whilst the content of objections raised is noted, if considered in the context of other developments where it would be very unlikely for an application for 8 dwellings to be refused due to the impact on infrastructure, it is not considered that it would be reasonable to cite any impacts on infrastructure as a reason for objection to an application for 8 pitches.
- 7.2.17. Other matters raised within Policy H of the PPTS are not considered to be applicable to this development or are addressed elsewhere.

The Occupiers of the Site.

- 7.2.18. The development is proposed to be occupied by members of the Gypsy and travelling community, the identity of which was previously confirmed at appeal. A material consideration is whether potential occupiers of the site would meet the definition of as set out in the PPTS. The PPTS definition of gypsy/traveller is as follows:

‘persons of the nomadic habitat of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependents’ 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’.

- 7.2.19. The applicant’s planning statement provides details of the occupiers of the site and their lifestyle which is consistent with the information submitted previously at appeal and, having reviewed this, the inspector was satisfied that the occupiers would meet the above definition. In any case, and notwithstanding the requirement of policy, it is acknowledged that there is a need to supply Gypsy and traveller pitches which goes beyond the personal circumstances of the applicant. A condition limiting the use of the site to the current occupiers, therefore, could only be deemed to be necessary where the personal circumstances of the applicant are of such weight that they are grounds

to support an otherwise unacceptable development. From that basis, the details provided are noted, but the need to personalise the permission will be considered in the planning balance section that is to be undertaken further below.

- 7.2.20. It is noted that there is an allegation within the representations that the site has been occupied by persons other than those that fall within the abovementioned definition. This has been previously investigated by the Council's Planning Investigations Team and it is understood that the occupation of the site has reverted to be only by persons that can comply with the condition that was previously imposed. As set out elsewhere, the need that exists is not specific to individuals and therefore, even if the persons meeting the definition were to leave, there is scope to conclude that the site would be needed to meet the wider need that exists. A condition relating to the occupation of the site would address this matter and meet all the tests, including the test of enforceability. Consequently, no objection is raised on the grounds of criteria 2 of Policy DM10.

Need for and provision of sites

- 7.2.21. The PPTS states that Local Planning Authorities should identify and update annually a supply of specific strategic deliverable sites sufficient to provide 5 years' worth of sites against their locally identified need.
- 7.2.22. The Swale Borough Council Gypsy, Traveller and Travelling Showperson Accommodation Assessment 2023 (the GTAA) is the most recent study on the accommodation needs of these communities. The GTAA analysis takes into account the needs arising from existing households, households on unauthorised sites, newly forming households, in-migrant households and vacancies on existing public and private pitches. The GTAA concludes there is an overall need for 114 additional Gypsy and Traveller pitches across the Borough over the period 2022/23 to 2037/38. This is need over the whole plan period (not the 5 year supply of traveller sites).
- 7.2.23. The Council's Housing Economic Land Availability Assessment 2025 (HELAA) states that monitoring between 1 April 2022 (base date of GTAA evidence) and 31 December 2025 has identified 23 pitches have been consented. This means for the purposes of meeting the immediate 5 year unmet need there is a requirement for 57 additional pitches. Therefore, Swale Borough Council does not have a supply of specific deliverable sites sufficient to provide 5 years' worth of sites. The lack of a five-year supply engages the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework.
- 7.2.24. Due to the temporary permission, the application site was counted towards the existing provision within the Borough and, therefore, to refuse this application would be to effectively reduce the overall provision whilst, in turn, increase the need for further pitches to be identified. Though not determinative or preventing a refusal of permission if warranted by policy, it is relevant that this would exacerbate the shortfall identified in the GTAA as outlined above. Whilst not binding, paragraph 6.31 of the GTAA recommends that a number of unauthorised sites should be re-appraised to try and meet the Borough's needs. In this regard, the site would not have been included in the 35 pitches that fell into that category at the time the GTAA was published; but would do now. Therefore, whilst the previous refusals are acknowledged, it is considered

appropriate to re-appraise the site as per the GTAA. However, it is also acknowledged that the Council's HELAA identifies that the site is not suitable.

- 7.2.25. In this respect, it is noted that at the time of the previous appeal decision, the Inspector based their decision on the Council having a supply of 3.5 years, with it being indicated that the Council's policy based on a "windfall" approach was being successful in terms of providing more sites than required by the GTAA. The temporary permission was granted to enable the applicant and the Council to identify an alternative site with it presumably being the case that the supply and policy would enable such an alternative site to come forward.
- 7.2.26. Since that time, the Council's GTAA has identified a need for 80 pitches up to the period ending 2026/27 which has not been addressed. This was corroborated at an appeal in May 2025 (APP/V2255/W/24/3357886) in relation to Land at Eden Top, Sheppey Way, Bobbing where the Inspector identified that *"The GTAA analysis takes into account the needs arising from existing households, households on unauthorised sites, newly forming households, in-migrant households and vacancies on existing public and private pitches. The report concludes there is an overall need for 114 additional Gypsy and Traveller pitches across the Borough over the period 2022/23 to 2037/38, with a shortfall of 80 in the five year period 2022/23 to 2026/27 and 34 pitches in the longer term."*
- 7.2.27. That Inspector went on to identify that *"The current definition in the 2024 PPTS has been broadened to include all other persons with a cultural tradition of nomadism or of living in a caravan. The identified need of 114 pitches is probably an under-estimate for this reason alone."* Consequently, with the Council identifying within that appeal that it could demonstrate a 1.3 year supply of pitches, the Inspector found that *"the evidence indicates a very significant shortfall in pitches in the Borough. The lack of a five year supply engages the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework, unless the application of policies protecting the North Kent Marshes Special Protection Areas and Ramsar sites (the SPA) provide a strong reason for refusing the development proposed."*
- 7.2.28. Similarly, whilst appeal APP/V2255/W/24/3354226 (June 2025) was dismissed on the grounds of coastal erosion matters, the Inspector stated that *"When I factor in the lack of five-year supply, the current unmet need for pitches, the absence of an alternative site, and the failure of policy that has led to this situation, the provision of one pitch adds significant weight in favour of the proposed development."*
- 7.2.29. The number of pitches in the current application is greater than that example and, as such, the benefit should be acknowledged to be afforded to be greater. The weight to afford can still be significant.

Loss of Agricultural Land

- 7.2.30. Policy DM31 states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. As set out above, there is an overriding need and no basis to expect that this can be met within the built-up area boundaries, particularly in light of there being a shortfall of housing land supply and objectives built into local planning policy to

support employment development and avoid the unwarranted loss of employment land. This element of the policy is therefore complied with, albeit this addresses all agricultural land and, as such, implies that development could occur on agricultural land that is not BMV as that land is subject to the following policy.

- 7.2.31. That policy goes on to state that development on best and most versatile agricultural land (specifically Grades 1, 2 and 3a) will not be permitted unless:
1. The site is allocated for development by the Local Plan; or
 2. There is no alternative site on land of a lower grade than 3a or that use of land of a lower grade would significantly and demonstrably work against the achievement of sustainable development; and
 3. The development will not result in the remainder of the agricultural holding becoming not viable or lead to likely accumulated and significant losses of high-quality agricultural land.
- 7.2.32. The development of the application site has resulted in the loss of Best and Most Versatile (BMV) agricultural land, however, it was previously agreed by the inspector that, as around 70% of farmed land within the Swale Borough is BMV and the majority of non-BMV land is within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the Isle of Sheppey “it would be very difficult to locate non-BMV land for the use proposed”.
- 7.2.33. As such, despite the development continuing conflict with policy DM31, as per the inspector's appeal decision, only moderate weight is given to the loss of BMV agricultural land in this case.

Other Matters

- 7.2.34. It is noted that the proposed capacity of the site that is set out within the description of the development would double the number of caravans relative to what was approved at the site on a temporary basis. The implications of this additional site capacity will be considered below. Whilst it is conventional for most sites of this type to have one mobile home, one touring caravan and a day room, there is no policy or legislation to insist upon this. Indeed, at appeal APP/V2255/W/23/3333589 (following refused application 23/504136/FULL) in respect of land at The Retreat, Elverland Lane, Ospringe, Faversham ME13 0SP, the Inspector limited the capacity of the site to two static and two touring caravans, albeit that was also a personal permission. In this instance, noting that some family units are larger than others and the applicant has detailed who would occupy the caravans (which could be the case whether it is these named individuals or others that occupy the site in the future) it is considered that there is no basis to not consider an application that would enable more caravans to be present than might normally be expected. In this regard, whilst previous breaches of the site capacity condition are noted, it is not considered that this should be reason to not consider the application on the basis of the terms that are detailed within the application.

7.3. Landscape and Visual Effects and Character and Appearance

- 7.3.1. Policy DM24 of the Local Plan states the value, character, amenity and tranquillity of the Borough's landscapes will be protected, enhanced and, where appropriate, managed. The site is not within a designated landscape and, as such, it is relevant that Policy DM24 states that landscapes will be protected and planning permission will be granted where adverse landscape impacts are minimised and mitigated or, where significant adverse impacts remain, only support applications where the social and/or economic benefits significantly and demonstrably outweigh the harm to the landscape character and value of the area.
- 7.3.2. Local Plan Policies CP4 and DM14 and the NPPF attach great importance to the design of the built environment and that design should contribute positively to making places better for people.
- 7.3.3. The NPPF requires decisions to ensure that development is '*sympathetic to... landscape setting*'. Moreover, it requires that the intrinsic character and beauty of the countryside is recognised and, amongst other requirements, planning decisions should ensure that developments function well and are visually attractive as a result of good layout and appropriate and effective landscaping.
- 7.3.4. The site is within the Hartlip Downs Landscape Character Area as identified within the Council's Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011. The condition of that LCA is assessed as being good and the sensitivity to development is moderate. The overall approach recommended within that document is to conserve and reinforce with a suggestion being to "*conserve the distinctive and open landscape character of the chalk valleys, with their slopes and ridges, together with the character of narrow enclosed lanes, by the retention and management of the landscape structure of chalk grassland, woodland and hedgerows. Additionally, look for opportunities to reinforce landscape structure (including the removal of conifer trees), especially in localised denuded and open areas.*" Whilst reference is made to the setting of the National Landscape and its protection and due regard is had to the need to further the purposes of the conservation and enhancement of the natural beauty of the landscape, in this case it is considered that the scale of development and the distance from the National Landscape means that the development would not conflict with the purpose and, by enabling development outside the National Landscape, it would reduce any pressure that exists to undertake development within the National Landscape or its setting.
- 7.3.5. It was previously found by the inspector that the development, owing to its visibility from the surrounding area (including from the public footpath which runs across the open land towards the north) would consequently "appear prominent and discordant" along with being "significantly out of place" and "unacceptably urbanising". The Inspector identified that there are some hedgerows within the area but that these allow for open views across the land.
- 7.3.6. Compared to the previous temporary permission, there would be 16 additional caravans comprising of 8 additional statics and 8 additional touring caravans. This would cause the visual impact of the use of the site to be materially greater and even more unacceptable than was found to be the case by the Council and the Inspector

previously. Consequently, the findings of the Inspector not only remain applicable, but the impact would also be increased and more harm would be derived.

- 7.3.7. Relative to the time of that previous decision, it appears that there is some additional to the north of the site and, in combination with other landscaping in the area, it is considered that the site is less prominent from the north than it appears to have been before. The site remains prominent in views from the highways to the south and east, with clear views being intermittently achievable from the highway to the west.
- 7.3.8. The submitted plans show potential for soft landscaping to be incorporated along the exterior of the site which would represent an improvement when compared to the previous appeal and what has been achieved at the site, despite the approval of a Site Development Scheme showing landscaping at all boundaries. It is considered that this would help to soften the visual appearance of the content of the site and partially mitigate its visual impact.
- 7.3.9. In this regard it is noted that the previous Inspector found that intensive landscaping at the site could also appear incongruous within the area and contrary to the advice in the PPTS at paragraph 26. This is noted. However, since that time it is noted that the adjacent fields to the north have been used for tree planting on the basis of what appears to be an agricultural business and, as such, the context of the site has changed, albeit there is no guarantee that the adjacent land would continue to be used in that way and, as this appears to be a crop rather than long-term planting it is likely that there would be periodical changes to this landscaping. Moreover, whilst the Inspector found that planting could appear incongruous, it is noted that there are belts of hedges and trees at the boundaries of fields within the vicinity of the site such that there would be scope to partially reduce the visual impact of the development, albeit not to the extent that it would be entirely screened, which was resisted by the Inspector.
- 7.3.10. Overall, it is considered that a balanced landscaping approach could be taken which would soften and partially mitigate the visual impact of the development, without that landscaping becoming visually incongruous. This would not entirely screen the site and its contents but would be able to have a softening and partially mitigating impact. This could reduce the landscaping impact below the threshold of significant and result in Policy DM24 being complied with.
- 7.3.11. Even allowing for landscaping, visual harm would continue to exist and would likely be increased as a result of the presence of additional caravans relative to that which temporarily allowed and found unacceptable before. The development would, therefore, continue to conflict with policies ST1, ST3, CP4, DM10(4), and DM14 of the Local Plan 2017

7.4. **Living Conditions**

- 7.4.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers.
- 7.4.2. No unacceptable impacts upon the amenity of residents were previously identified by the local authority or inspector when assessing 19/503694/FULL. Even noting that

there would be additional caravans at the site as a result of this application, it remains the case that the development is acceptable in these respects, not causing an unacceptable loss of light, privacy or outlook. Potential disturbance brought about by the use of the site can be controlled through conditions.

- 7.4.3. For this reason, even noting the increased capacity of the site compared to the developments that were considered previously, the development is considered to be in accordance with policies DM10(6) and DM14 of the Local Plan 2017 and the NPPF.

7.5. **Archaeology**

- 7.5.1. Policy DM34 of the Local Plan sets out that planning applications on sites where there is or is the potential for an archaeological heritage asset, there is a preference to preserve important archaeological features in situ, however, where this is not justified suitable mitigation must be achieved.
- 7.5.2. The NPPF sets out that where development has the potential to affect heritage assets with archaeological interest, Local Planning Authority's should require developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation.
- 7.5.3. The site falls within an Area of Archaeological Potential, however, no unacceptable impacts upon buried heritage assets were considered to occur under 19/503694/FULL. Even allowing for the additional elements compared to the previously considered development, it would continue to accord with policy DM34 of the Swale Borough Local Plan 2017 and the NPPF.

7.6. **Ecology**

- 7.6.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.
- 7.6.2. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

Habitat Sites

- 7.6.3. Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*" and "*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*" Furthermore, the NPPF states that 'the planning system should contribute

to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘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.’

- 7.6.4. The Local Plan requires new development to ensure there are no adverse effects upon the integrity of a SAC, SPA or Ramsar site, alone or in combination with other plans/projects.
- 7.6.5. Considering that the application site is located within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, upon the coastal Swale Special Protection Areas (SPAs)/Ramsar sites stemming from recreational disturbance on the over-wintering bird interest.
- 7.6.6. Natural England have previously advised the local planning authority that an appropriate tariff of £337.49 per dwelling (excluding any legal and monitoring officer’s costs) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries.
- 7.6.7. These SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (Samm) produced by Footprint Ecology in July 2014.
- 7.6.8. A decision from the Court of Justice of the European Union (People Over Wind v Coillte Teoranta, ref. C-323/17) detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full ‘appropriate assessment’ is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out.
- 7.6.9. An Appropriate Assessment is carried out below and is adopted by the Council as the Competent Authority, which concludes that the development will not adversely affect the integrity of the Thames Estuary & Marshes SPA and Ramsar Site and Swale SPA and Ramsar Site.

Appropriate Assessment under Conservation of Habitats and Species Regulations 2017.

- 7.6.10. The project being assessed will result in a net increase of four residential dwellings in 6km of the North Kent SPAs and Ramsar Sites. In line with Policy CP7 ‘Conserving and enhancing the natural environment – providing for green infrastructure’ and Policy DM28 ‘Biodiversity and geological conservation’ and based upon the best available evidence, a permanent likely significant effect on the SPAs and Ramsar Sites due to increase in recreational disturbance as a result of the new development, is likely to occur. As such, in order to avoid and mitigate for an adverse effect on the integrity of

the SPAs and Ramsar Site(s), the development will need to include a package of avoidance and mitigation measures.

- 7.6.11. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites and their internationally important bird interest features. Elements within the strategy are:
- Rangers to provide wardening and visitor engagement
 - A North Kent Coast dog project to promote responsible dog ownership and encourage walking on lead in sensitive areas
 - Codes of conduct developed in partnership with local groups and clubs to raise awareness of recreational disturbance in a variety of activities both on and off of the water
 - Interpretation and signage
 - New and/or enhanced infrastructure
 - Enforcement and Monitoring
- 7.6.12. The report also considered alternative measures, such as legal covenants relating to pet ownership in new developments, and capping visitor numbers at recreational sites. Due to the complexities in enforcing legal covenants and in reducing visitor numbers to the North Kent marshes, it is difficult to have confidence that such measures would be effective.
- 7.6.13. The suite of strategic mitigation measures are being delivered through the Bird Wise project, a partnership of local authorities and conservation organisations in North Kent, to ensure that development, considered in-combination, does not have an adverse effect on the integrity of the European sites. It's noted that a per dwelling tariff of £337.49 is required in order to mitigate the increased recreational pressure upon the Swale SPA though, for the purposes of this application, a 'dwelling' is considered to be synonymous with a residential unit (i.e. a pitch) and the necessary financial contribution has been calculated on that basis.
- 7.6.14. Natural England has worked with the north Kent Local Planning Authorities to support them in preparing the SAMMS and the underpinning evidence base. Natural England have subsequently agreed that the mitigation measures to ensure additional impacts from recreational disturbance to the SPAs and Ramsar Sites are ecologically sound. On that basis, the Applicant does not need to provide their own evidence base on these aspects.
- 7.6.15. The SAMMS tariff of £337.49 per dwelling has been paid to ensure that the impacts upon the SPA arising from the development will not be significant or long term. It is therefore considered that any adverse effect on the integrity of the SPA have been satisfactorily addressed through this aforementioned mitigation measure. Consequently, this appropriate assessment ascertains with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives.
- 7.6.16. Having made this appropriate assessment of the implications of the project for the site(s) in view of that site's conservation objectives, the authority may now agree to

the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

On-Site Biodiversity

- 7.6.17. No unacceptable impacts upon protected habitats or their species were previously identified by the local planning authority or inspector under 19/503694/FULL and, although three years has since lapsed, there is no reason to conclude that ecological arrangements have varied substantially (given the manner in which the site has been used) to reach a difference conclusion.
- 7.6.18. Biodiversity Net Gain is addressed post decision, but it is considered that at least one of the exemptions would apply, as existing habitats would not be affected and the application is retrospective.

7.7. Transport and Highways

- 7.7.1. Local Plan Policies CP2 and DM6 promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD.
- 7.7.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.7.3. No unacceptable impacts upon either highway or pedestrian safety were previously identified by the local planning authority or the planning inspector when assessing 19/503694/FULL subject to the imposition of a condition which required details of the proposed access to the site to be submitted and approved. That access has subsequently been provided with it appearing to have been installed between August 2022 and June 2023. Whilst the number of caravans intended to be at the site has increased relative to the previously considered development, it remains the case that the proposed development is acceptable in these respects, not posing an undue threat to highway safety and being able to be served by adequate access and parking arrangements.
- 7.7.4. It is noted that no objection has been raised to the application by the Highway Authority subject to conditions and, in line with their comments, it is considered appropriate to add a condition requiring the retention of the access and visibility splays from that access. However, noting that there is adequate space for vehicles to be kept at the site and there is a limited likelihood of vehicles being kept in demarcated bays, it is considered that the condition relating to the parking spaces shown on the submitted

plans is unnecessary and impractical. The application is considered to be equally acceptable without such a condition imposed.

- 7.7.5. As such, whilst it is noted that the number of caravans at the site would increase, there would remain 8 pitches and as the access would be the same as previously found acceptable, it would continue to be in accordance with policies DM14 and DM10(11) of the Local Plan 2017 and the NPPF.

7.8. Flood Risk, Drainage and Surface Water

- 7.8.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed.
- 7.8.2. The previous submission of this application (19/503694/FULL) indicated that sealed cesspits were to be utilised for foul drainage. However, the current application form now states that package treatment plants are being used. Given this uncertainty the Environment Agency have requested the submission of a foul water drainage scheme.
- 7.8.3. KCC Drainage have also confirmed the development would be of a low flood risk (from fluvial and pluvial sources) though, to ensure the site is served by adequate surface water drainage, request for any new hardstanding to be supported by appropriate details of drainage provision.
- 7.8.4. Subject to the above being secured by conditions, the proposed development is considered to be in accordance with policy DM21 of the Swale Borough Local Plan 2017 and the NPPF.

7.9. Sustainability / Energy

- 7.9.1. Policy DM19 of the Local Plan requires development proposals to include measures to address climate change.
- 7.9.2. In this case, given the moveable nature of the items to be kept at the site, it is not considered that achieving any gains in this regard would be practical. Therefore, whilst not according with the requirement, neither is an objection raised.

7.10. Other matters

- 7.10.1. The Public Sector Equality Duty (PSED) requires consideration to be had as to how policies or decisions would affect people who are protected under the Equality Act which, in this instance, would be likely to include the occupiers of the site on account of their race. As the recommendation reached upon below is to approve the application, a decision to that effect would align with the Duty.

7.11. Planning Balance – Benefits and Harm

- 7.11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

- 7.11.2. In this case conflict with policies in the development plan have been identified as set out above. This amounts to conflict with the settlement strategy and policies ST1 and ST3, conflict with policy DM31 as a result of the loss of Best and Most Versatile agricultural land and visual harm that conflicts with policies ST1, ST3, CP4, DM10(4) and DM14.
- 7.11.3. Paragraph 28 of the PPTS clarifies that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. As the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.11.4. In this case, the Council is not able to demonstrate an adequate supply of Gypsy and Traveller accommodation and, more broadly, the Council is not able to demonstrate a sufficient supply of housing and the local plan review that was required to take place has not occurred. For each of these reasons, the approach set out at ii) above is applicable such that the assessment turns on whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. and the NPPF.

Benefits

- 7.11.5. As above, the primary benefit from approving the development is that it would contribute towards meeting a shortfall of Gypsy and Traveller sites that has been found to be significant in recent assessments and appeals. The Council is unable to demonstrate a 5 year supply of sites as per the most recently updated GTAA from December 2023 which identified a shortfall of 114 pitches over the period 2022/23 to 2037/38 with no alternative sites identified. More recently, the Council's Housing Economic Land Availability Assessment 2025 (HELAA) states that, whilst 23 pitches have been consented, for the purposes of meeting the immediate 5 year unmet need there is a requirement for 57 additional pitches. Therefore, Swale Borough Council does not have a supply of specific deliverable sites sufficient to provide 5 years' worth of sites.

- 7.11.6. The grounds stipulated for a temporary three-year permission under 19/503694/FULL was to enable its reassessment against an updated supply of pitches as part of a revised GTAA, however, the shortfall within the Swale Borough has only increased since that decision. The development therefore makes a valuable contribution to the supply of gypsy and traveller pitches in the borough at a time when the council are unable to demonstrate a five year supply. This weighs significantly in favour of the development.
- 7.11.7. It is not considered that any economic or environmental benefits would arise from the development. In this regard, any landscaping gains would be to partially mitigate the effect of development and, as such, is considered a necessity rather than a benefit.

Harm

- 7.11.8. The harms are, as set out above, most notably a harmful visual impact that would not be able to be fully mitigated by landscaping. This is contrary to paragraphs 131, 135, and 187 of the NPPF and paragraph 26 of the PPTS. The harm arising in this respect can be afforded significant weight.
- 7.11.9. Furthermore, the continued loss of best and most versatile agricultural land would be contrary to paragraph 187 of the NPPF. The conflict with the Council's settlement strategy is not directly in conflict with the NPPF as there are no comparable policies within the NPPF. However, by being contrary to the plan-led approach, it is considered that there is conflict arising with the overarching principle of the NPPF. The harms in these respects are often afforded little or moderate weight by Planning Inspectors.

NPPF Balance

- 7.11.10. Overall, even affording significant weight to the visual harm caused by the development and the conflict with the NPPF arising from this and moderate weight to the other harms, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the significant benefit arising from the boost to the supply of Gypsy and Traveller sites. In view of the benefits arising from the provision of the gypsy and traveller accommodation proposed and the conclusions reached, there is no need in this instance to rely on the personal circumstances of the occupants on site. A condition requiring any future occupants to comply with the definition set out in Annex 1 of the PPTS would ensure that the site would continue to make a valuable contribution to the supply of gypsy and traveller sites in the borough in the long term.

7.12. Conclusion

- 7.12.1. Whilst the development is contrary to the development plan when it is taken as a whole, the development is supported by the NPPF. As set out above, the application should be determined in accordance with the development plan unless material considerations indicate otherwise and, in this case, it is considered that the NPPF indicates that planning permission should be granted.
- 7.12.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the

Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.13. **Recommendation**

7.13.1. Grant planning permission subject to conditions:

7.14. **Conditions**

1. The development hereby approved shall be carried out in accordance with the submitted drawings/documents received on 13/06/2025:

- 2025-PPP046v1-Location – Location Plan
- Plan 3 – Proposed Utility Block
- 2025-PPP-046v1-Block – Block Plan

Reason: To secure the proper development of the area.

2. No drainage systems for the infiltration of surface water to the ground may be installed other than with the prior written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. Any approved surface water infiltration installations shall be provided only in accordance with the approved details.

Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants.

3. The site shall not be occupied by any persons other than gypsies and travellers, meaning 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 or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: The location of the site would not be suitable for unrestricted residential accommodation.

4. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which no more than 2 caravans shall be static caravans or mobile homes.

Reason: In the interests of the visual amenity of the locality.

5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

Reason: In the interests of neighbouring residential amenity and the general amenity of the rural locality.

6. No commercial activities shall take place on the land, including the storage of materials.

Reason: In the interests of neighbouring residential amenity and the general amenity of the rural locality.

7. The use hereby permitted shall cease and all structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within six months of the date of this decision a scheme detailing the provision of foul water disposal facilities, a hard and soft landscaping scheme and a timetable of all works (including the provision of foul water disposal facilities and the undertaking of hard and soft landscaping works) shall have been submitted for the written approval of the local planning authority. The hard and soft landscaping details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials. In addition, if any additional or new hard landscaping is proposed, this shall be accompanied with details of measures to provide surface water drainage enhancements at the site.
- ii. if within six months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

Subsequently, the approved foul water disposal facilities shall be provided in accordance with the approved timetable and all hard and soft landscaping works (including any approved surface water drainage enhancements) shall be carried out and completed in accordance with the approved timetable.

Reason: In the interests of visual amenity and ensuring the adequate provision of foul water disposal provisions.

8. Any trees or plants included in the approved scheme of landscaping which within a period of 5 years from the completion of the planting scheme die, are

removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

9. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

10. The access to the site shall be retained in accordance with the access arrangements previously submitted to and approved by the Local Planning Authority under the terms of application 22/503798/SUB. This shall include the retention of the visibility splays (2.4m x 45m) which shall be kept clear of any obstructions above a height of 0.8m above ground level.

Reason: In the interests of highway safety.

