

4.2 22/02053/FUL

Revised expiry date 5 June 2023

Proposal: Change of use of the land for the stationing of 3 touring caravans for occupation by an extended Romany Gypsy family

Location: Plot 4, Grazing Land South Of Viaduct Terrace, Horton Road South Darenth Kent

Ward(s): Farningham, Horton Kirby & South Darenth

Item for decision

This application has been called to Committee by Councillor Ball due to concerns about the impact on the Green Belt, the impact on the amenities of neighbouring properties and the village hall opposite, and the case for very special circumstances put forward by the applicant.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites 2015 (or its equivalent in replacement national policy if applicable).

To ensure the development meets an identified need, and as this contributes to the Very Special Circumstances of this case.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: Drawing No. 002 Rev C, 003 Rev C, 004 Rev C.

For the avoidance of doubt and in the interests of proper planning.

3) There shall be no more than three touring caravans stationed on the site at any time (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended), and the touring caravans shall be in the locations shown on the approved plan (drawing no. 002 revision C). No static caravans shall be sited on the land and no other buildings or structures shall be placed on the land without the benefit of further planning permission.

To preserve the openness of the Green Belt and the character of the area and to ensure that air flow beneath structures in use on the land is maintained. To comply with policy SP6 of the Sevenoaks Core Strategy, policy EN1, EN2 and GB6 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

4) No commercial activities shall take place on the land, including the storage of materials and commercial vehicles.

To preserve the openness of the Green Belt, the visual amenities of the area, and residential amenities. To comply with policies EN1, EN2 and EN7 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

5) No external lighting shall be installed on the site or affixed to any buildings or structures on the site until details of the proposed lighting have first been submitted to and approved in writing by the local planning authority. The submission of the details shall include the proposed location, height and design of the lighting and measures to reduce light spillage and intensity of illumination. The external lighting shall be installed only in accordance with the approved details.

To safeguard the character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

6) The development shall be carried out in accordance with the submitted Flood Risk Assessment (dated November 2021 and completed by UNDA) and the mitigation measures it details.

To reduce the risk of flooding to the proposed development and future occupants, to comply with policy SP6 of the Sevenoaks Core Strategy, policy EN2 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

7) When installing utilities or when undertaking other excavations, a clean cap of at least 1 metre in depth shall be maintained and protected at all times.

In the interests of pollution prevention and safety, in accordance with policy EN2 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

8) The land shall not be used for growing home produce.

In the interests of pollution prevention and safety and to protect the amenities of residents, in accordance with policy EN2 of the Sevenoaks Allocations and Development Management Plan and the National Planning Policy Framework.

9) Within three months of the date of this decision, full details of hard and soft landscaping across the site shall be submitted to and approved in writing by the Local Planning Authority. All soft landscaping shall be implemented not later than the first planting season following their approval. All hard surfaces shall be laid in accordance with the approved details within three months of their approval.

To preserve the character and appearance of the area in accordance with policy EN1 of the Sevenoaks Allocations and Development Management Plan.

10) Within three months of the date of this decision, details of ecological enhancements for the site shall be submitted to and approved in writing by the Local Planning Authority. Those enhancements shall be carried out in accordance with the approved details within three months of their approval.

To ensure the development delivers ecological enhancements in accordance with policy SP11 of the Sevenoaks Core Strategy.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 The site comprises of a parcel of land located on the western side of Horton Road within the parish of South Darenth. The site is located on a former landfill.

Description of proposal

- 2 Change of use of the land for the stationing of 3 touring caravans for occupation by an extended Romany Gypsy family. The application is retrospective.
- 3 In 2009, an appeal against an enforcement notice and 08/00275/FUL, for the change of use of the land as a private gypsy caravan site, was dismissed. It was considered that the case for very special circumstances put forward by the applicant would not clearly outweigh the harm to the Green Belt, the landscape character of the area and flood risks.
- 4 It is important to note that there have been significant changes in local and national planning policies since the appeal decision. The decision pre-dates the adoption of the Sevenoaks Core Strategy, the Sevenoaks Allocations and Development Management Plan, the National Planning Policy Framework and Planning Policy for Traveller Sites.
- 5 Planning permission was granted in 2017 for the erection of a stable building on the site for personal use only.

Relevant planning history

- 6 88/01181/HIST Single storey single horse stable - GRANT 18/04/1989
- 7 01/01456/FUL Proposed stables and tack room - REFUSE 09/10/2001
- 8 08/00275/FUL Use of land as a private Gypsy caravan site for a single family - REFUSE & APPEAL DIMISSED 31/03/2008
- 9 17/01282/FUL Erection of 3 Stables and 1 Tack Room - REFUSE 03/07/2017
- 10 17/02656/FUL Erection of 3 stables and 1 tack room - GRANT 30/11/2017

Policies

11 National Planning Policy Framework (NPPF)

Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.

Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- Footnote 7 (see reference above) relates to policies including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

12 Planning Policy for Traveller Sites (PPTS)

13 Core Strategy (CS)

- LO1 Distribution of Development
- LO7 Development in Rural Settlements
- SP1 Design of New Development and Conservation
- SP2 Sustainable Development
- SP6 Provision for Gypsies, Travellers & Travelling Show People
- SP11 Biodiversity

14 Allocations and Development Management Plan (ADMP)

- SC1 Presumption in favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN7 Noise Pollution
- GB6 Siting of Caravans and Mobile Homes in the Green Belt
- T1 Mitigating Travel Impact
- T2 Parking
- T3 Provision of an Electric Vehicle Charging Point

15 Other:

- Development in the Green Belt Supplementary Planning Document (SPD)

Constraints

- 16 The following constraints apply:
- Metropolitan Green Belt
 - Area of Archaeological Potential
 - Biodiversity Opportunity Area
 - Flood Zone 2

Consultations

- 17 Horton Kirby and South Darenth Parish Council:
- 18 Objection. “The land lies within Green Belt. The proposal would be inappropriate development harmful to the maintenance of the character of the Green Belt and its openness. It involves new development outside the confines of the village. The land lies within Special Landscape Area and would fail to give long-term protection to the landscape and would detract from the character and appearance of the area. The site is at significant risk of flooding. The occupants would be highly vulnerable as the accommodation would be caravans.
- 19 The proposal could also increase the risk of flooding elsewhere. There is no evidence that the proposal has demonstrated the site is safe for residential occupation given the risk of contaminated land. There is no evidence that the proposed access has acceptable visual amenity or highway safety.
- 20 No very special circumstances have been put forward which outweigh the harm caused.
- 21 We object to the planning application and recommend that the application be refused.
- 22 This planning application should be indicated as ‘retrospective’ as two caravans have been on the site since the weekend of 30/31st July 2022.
- 23 Planning application SE/17/02656/FUL erection of 3 stables and 1 tack room. Proposed block plans (attached) were for 2 parking spaces: Discharge of Conditions May 2020 James Barron BA(Hons) DipTP MTRPI Condition 5: Landscaping. No addition soft landscaping is proposed and not considered necessary.
- 24 The eastern boundary fronting Horton Road has a well-established indigenous hedge of hawthorn and blackthorn in excess of 2m in height across the whole site frontage and completely screens the site. The stable yard that occupies the front third of the site has natural fencing to the northern a southern boundaries which adjoining open grazing fields,. The western boundary of the yard area is marked by close boarded fencing separating it from the grazing paddocks leading down to the river which has numerous mature trees. These provide sufficient biodiversity and encourage fauna to the site.

- 25 The above clearly states that no additional ‘soft landscaping’ was proposed yet work to almost double the size of the ‘driveway and continue into the second field began as early as February 2021 which was in breach of the granted application.

Enforcement case

- 26 20/00100/BRCN
- 27 2.4 The site has been owned by the Knowles Family and was subject of an application by the applicant’s father in 2008(08/00275/FUL) for the use of the land as a private gypsy caravan site for a single family for himself, wife and 4 children. This was refused by the Council on 30 March 2008 primarily on Green Belt and Flood Risk reasons and an Enforcement Notice was issued.
- 28 There is no evidence to suggest that the refusal reason in 2008 should now be changed.
- 29 2.4 She (the inspector) accepted the educational needs of the family with Jason, the current applicant, then being 12, and his siblings Billy 10 and Elias 4. There are no educational needs for the family presently
- 30 2.5 dismissed the appeal largely on inappropriate development in the Green Belt but primarily on the basis that the site was located in a Flood Zone 3A area and that there were strong environmental reasons for dismissing the appeals.
- 31 The flood zone location has not changed. The site was previously used as landfill and the environmental reasons are still evident.
- 32 2.8 three large touring caravans
- 33 No evidence that the caravans will be ‘touring’ see 4.11 which states that they are ‘static’ caravans.
- 34 2.8 flood risk has resided
- 35 No evidence from environmental agency that states this is true. The site is situated in Green Belt.
- 36 3.1 Article 35 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, requires that, when issuing a decision, councils must also include a statement explaining, whether, and if so how, in dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application.
- 37 Local Authority cannot change the fact that the land is in Green Belt and is a flood risk.
- 38 3.3 sustainable development

- 39 Definition of sustainable is 'able to be maintained at a certain level' In order to maintain the Green Belt no change of use of land can be approved.
- 40 3.5 (brownfield land) and the development of underutilised land
- 41 The site is not brownfield it is Green Belt and is not underutilised as the land is currently used for horses.
- 42 3.6 high quality buildings and that good design is a key aspect of sustainable development
- 43 Can caravans be established as 'high quality buildings?' and not in keeping with the cottages close by.
- 44 3.6 will function well and add to the overall quality of the area
- 45 The proposed planning application shows no evidence that adds to the overall quality of the area that is open space and situated in Green Belt.
- 46 3.6 are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- 47 The landscape currently is open space and cottages, and the proposed planning application shows no evidence that it will be visually attractive in this area.
- 48 3.6 promote health and wellbeing with a high standard of amenity for existing and future users.
- 49 Site sits in former Landfill site and flood area and there may be consequences for the rest of the village if the land was built on - health and wellbeing would therefore be in jeopardy for the family and the village as a whole.
- 50 3.8 As the application site lies within the Metropolitan Green Belt, NPPF Green Belt policies will apply...prevent urban sprawl by keeping land permanently open...to prevent neighbouring towns merging into one another
- 51 Site sits within Green Belt and any building works would go against policies.
- 52 3.9 Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 53 No evidence in application of very special circumstances.
- 54 3.10 '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.
- 55 No evidence in application that any very special circumstances exist and therefore the potential harm to the Green Belt is not outweighed.
- 56 3.11 Whilst the construction of new buildings in the Green Belt is considered
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inappropriate, Paragraph 145 lists exceptions, with one of them being the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

57 The buildings are not being replaced in the same use as already on the site. Stables are being replaced by caravans.

58 4.4 other family sites

59 Mention of other family sites indicates that there may be alternative sites that the family could site their caravans.

60 4.4 last three years it has been difficult to find a permanent home...

61 The family left the existing site over 14 years ago. No evidence put forward to explain where they have been staying for the 11 years previous to the onset of Covid. Indicates there may be alternative sites for the family to site their caravans.

62 4.6 It is understood that a Gypsy and Traveller Accommodation Assessment (GTAA) was undertaken in 2017 (showed a need for pitches of) 5 between now and 2035 due to the grant of permanent permissions across the District since April 2017

63 States that only 5 pitches are needed in the area by 2035. This small site would accommodate 3 of these pitches which evidences that this is not a need demand.

64 4.6 question is whether the site is considered as a single family pitch or as 3 pitches

66 Definition: site = the area, pitch = caravan - therefore 3 pitches see 4.9 'caravan site licence requirements for spacing and separation.

67 4.7 PPTS advises that new traveller development in open countryside away from existing settlements should be very strictly controlled. The site is located outside of the urban confines, with the nearest settlement containing services being South Darenth and Sutton at Hone to the south.

68 See 4.1 indicates contradiction to:

It is our contention that the main considerations for this development are:
a) The status of the occupants of the site in relation to the NPPF and Sevenoaks policy for traveller sites SPD and Core Strategy Policy SP6 b) The suitability of the site and any environmental impacts c) Inappropriate development in the Green Belt and impact on openness

69 4.8 The PPTS requires that, in providing sustainable sites, local authorities should consider the ability of such sites to provide a settled base that reduces the need for long-distance travelling

70 The proposal consists of elderly mother and young children and families who will need health care and education in the not-too distant future.

- 71 4.11 It is acknowledged that the site is within Flood Zone... susceptible to flooding... medium risk of fluvial flooding...potential flood levels of up to 0.35m...
- 72 Clear evidence of flood risk to young families and not safe environment to site caravans.
- 73 4.12 The site is not located within a designated settlement boundary
- 74 Evidence that site in an inappropriate development in the Green Belt.
- 75 4.12 The principle of the use of the site for the stationing of touring Caravans Contradicts 4.11 clearly states static caravans.
- 76 4.13 NPPF supports the protection of the Green Belt and seeks to restrict development with Paragraph 138 stating that one of the fundamental aims of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 notes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.
- 77 NPPF clearly states regulations of protection of the Green Belt and this proposal should not be approved
- 78 4.14 building will be well integrated within the site and its landscaped boundaries and will not be visible from any vantage point that the public have any access to.
- 79 The site is surrounded by open land and can be seen very easily.
- 80 4.15 general presumption against inappropriate development in the Green Belt in the Council's policies...unmet need for gypsy and travellers within the district..... We regard this as a very special circumstance.
- 81 The only point from the proposal for 'very special circumstance' is the 'unmet need for gypsy and travellers within the district' this can be counteracted by 4.6 which states that only 5 pitches in the area are needed for the next 13-year period. This, therefore, cannot be said to be a 'very special circumstance'.
- 82 4.17 remoteness of
- 83 This contradicts comments in 4.7
- 84 4.18 Policy EN1 of the ADMP states that satisfactory means of access and adequate parking should be provided with all development...Whilst the proposal would see a material increase in traffic to the site Horton Road becomes very busy when the M25 is held up and an extra 5 vehicles would add to the village traffic problems.
- 85 The site entrance is not clearly visible from the road and would not be safe for family vehicles to come in and out of the site. It is noted that there has been 1 witnessed incident of a car colliding with a white truck travelling

along Horton Road towards South Darenth which had slowed to enter plot 4 this summer.

- 86 5.1 provision of a permanent base for an extended traveller family who are currently split and share plots...They have been looking for an authorised site of their own but there are no vacancies on any sites and the waiting lists are extensive
- 87 No evidence provided of how long the waiting lists are and how long the family have been on the list and the reasons given for not being offered a site. No evidence provided of where the family have been sited over the last 14 years since the previous application was refused.
- 88 See attached Gypsy and Traveller Pitch Allocation Policy 2012 which shows that family would meet criteria for pitch allocation and should be offered alternative site.”
- 89 SDC Travellers Liaison Officer:
No response received.
- 90 SDC Environmental Health:
- 91 “Whilst this site is located on a former landfill, investigations undertaken previously indicate that there is a clean cap of at least 1 meter in depth and no gas emissions were detected. Given that this proposed development is for the installation of 3 touring caravans, it is very unlikely that if ground gasses were present that they would be able to accumulate given the clearance of the home to the ground surface.
- 92 I therefore conclude that there is no significant risk to the proposed development from the potential contamination. Should you be minded to grant this application, it would be appropriate to add a conditions which achieve the following:
- ensure the protection of the capping layer when installing utilities or when undertaking other excavations,
 - control the use of the land for growing home produce.
 - ensure that air flow beneath structures in use on the land is maintained (i.e. that the structures remain touring caravans).”
- 93 Environment Agency:
- 94 “We have no objections to this proposal, but recommend the following condition is included.
- 95 Condition:
The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) ref.no. 91191-BES-HortonRd/ version V1.0

301121, dated November 2021 completed by UNDA, and the mitigation measures it details.

96 Reason(s):

To reduce the risk of flooding to the proposed development and future occupants.

97 We confirm that the site lies within the outline of Flood Zone 2 which is land defined in the planning practice guidance as being at risk of flooding.

98 The previous appeal, and the assessment of flood risk for this site, has been made in 2008/2009 based on the modelled data provided by the River Darent model, completed by Royal Haskoning in 2004, which located this site as being in Flood Zone 3a. Those modelled data were the best available data used to assess the flood risk at that time.

99 Since then, we have updated our modelling for the River Darent.

100 The River Darent & Cray 2018 modelling study, completed by JBA, is the most up to date available data and the flood zones have been updated accordingly.

101 Previous modelling in the catchment was believed to overestimate flood extents, particularly at low return periods. New geo data (LIDAR and ground survey) and evidence from the recent flood events have justified the update of the modelling and have been incorporated in the River Darent & Cray 2018 modelling study.

102 We have reviewed the submitted Flood Risk Assessment (FRA) ref. no. 91191-BESHortonRd/ version V1.0 301121, dated November 2021 completed by UNDA as support for planning application ref. no. 22/02053/FUL. According to our modelling record data the proposed development site lies outside of the modelled 1:100 years and 1:100 years 25% climate change flood extents. However, it would be reasonable to request that the Local Authority list the FRA as an approved document, to which the development must adhere in order to reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere. Hence, we have suggested the condition above.”

103 National Grid Plant Protection:

No response received.

Representations

104 We have received 14 letter of objection relating to the following issues:

- Traffic
- Impact on Highways Safety
- Pollution
- Noise, smells and disturbance
- Not in keeping with the historical village

- Impact on the conservation area
- Impact on the Green Belt
- Impact on AONB
- Flooding
- Contamination

Chief Planning Officer's appraisal

105 The main planning consideration are:

- Status of the applicant
- Principle of development
- Impact on the Green Belt
- Design and impact on the character of the area
- Impact on residential amenities
- Parking and highways
- Trees, Landscaping and Biodiversity
- Flooding

Status of the applicant

106 The definition of gypsies and travellers is set out in the annexe to Planning Policy for Traveller Sites (PPTS) 2015. This states that for the purposes of the PPTS, “gypsies and travellers” means:

‘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 show people or circus people travelling together as such.’

107 The PPTS adds that, in determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- 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

108 The applicant has completed the Council’s Validation check list and confirmed that

109 Gypsy status is being sought on the application. The information on the form and within the submitted Planning Statement, tell us the following information about the family which propose to occupy the site:

- The applicant, Jason Knowles, works locally as a landscaper and horse breeder. His wife Savannah is currently unemployed (they will occupy caravan 1).
- Amy and her youngest son Elias would occupy Caravan 2. Elias is a landscaper and horse trader.
- The other occupier would be Billy Knowles who undertakes tree and gardening work and is a horse trader. He would occupy Caravan 3 with his wife Roseanne and their 1yr old son.
- The applicant and his extended family have no intention of stopping travelling.
- The site would be used by the family as a permanent base however they would continue to travel to traditional gypsy fairs and traveller meets.

110 In light of the above information, I am satisfied that the intended occupants have a nomadic way of life. I am therefore satisfied that the intended occupants are Gypsies and Travellers under the definition contained in the PPTS.

Principle of development

111 The principle of the development will be established by all the considerations addressed in this report. However, it is relevant to consider the proposals in light of policy SP6 of the Sevenoaks Core Strategy which contains the criteria that would be taken into account for gypsy and traveller site allocations. These are as follows:

- a. the site should be located within or close to existing settlements with a range of services and facilities and access to public transport;
- b. the site is of a scale appropriate to accommodate the facilities required and will offer an acceptable living environment for future occupants in terms of noise and air quality;
- c. safe and convenient vehicular and pedestrian access can be provided to the site;
- d. the site is not located within an area liable to flood;
- e. the development will have no significant adverse landscape or biodiversity impact. In the AONBs, sites should only be allocated where it can be demonstrated that the objectives of the designation will not be compromised;
- f. alternatives should be explored before Green Belt locations are considered.

112 These issues are considered throughout the assessment below.

Impact on the Green Belt

- 113 As set out in paragraph 149 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, as listed in paragraph 149. Certain other forms of development that are not considered inappropriate are listed in paragraph 150. This includes material changes in the use of the land provided that they preserve openness and do not conflict with the purposes of including land within the Green Belt.
- 114 Paragraph 148 of the NPPF advises we should give substantial weight 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. Therefore, the harm in principle to the Green Belt remains even if there is no further harm to openness because of the development.
- 115 Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development.
- 116 The development in question would not fall within any of the exceptions to inappropriate development within the NPPF. It is therefore inappropriate development in the Green Belt. This is confirmed by the PPTS which states at paragraph 16 that “traveller sites (temporary or permanent) are inappropriate development.”
- 117 In considering the impact on the Green Belt, it is also relevant to consider the impact of the proposals on the openness of the Green Belt. Openness has both a spatial and visual dimension. How the built form manifests itself on site can also have an impact on openness.
- 118 Having carried out a site visit, it is understood that the land is already in use for the purposes described in the application. However, aerial photography suggests that, historically, the site was open and devoid of any built form. Stables were erected on the site along the northern boundary following the grant of planning permission in 2017. However, aerial photography suggests that the rest of the site remained open with only the stable building evident.
- 119 The proposals would see the introduction of additional built form and structures to the site, including caravans, hard surfaces, boundary treatments and paraphernalia associated with the change of use of the land. The proposed site plan shows that these items would be spread across the site and would encroach towards the open land beyond.
- 120 In this regard, the proposals would diminish the previous open nature of the site and would cause harm to the openness of the Green Belt despite the presence of some screening around the site.
- 121 In summary, it is considered that the proposal would be inappropriate development in the Green Belt by definition and harmful to the openness of the Green Belt, contrary to the NPPF.

- 122 It is relevant that paragraph 16 of the PPTS states “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.”
- 123 The assessment of whether or not there are very special circumstances in this case is considered at the end of this report, after all harms have been identified.

Design and impact on the character of the area

- 124 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 125 The wider landscape is predominantly rural and verdant in character. The development would result in a change in the character and appearance of the site, moving it from a distinctly rural site to a residential site. The development would be visible from the existing buildings located opposite the site and when approaching the site from the north and south of Horton Road. It is likely that the development would also be visible across the wider area, to the east.
- 126 Despite this, it is acknowledged that the site lies between the existing developments of South Darenth and Horton Kirby. The development would be situated near the existing built forms along Horton Road, immediately opposite the site. The development would also be set back a considerable distance from the road and the existing front boundary treatments would soften the visual impact of the development to some degree.
- 127 Conditions could be imposed to restrict the number and type of caravans on site and any other buildings or structures. A condition could also be imposed for details of any external lighting on the site. This would help to mitigate the visual impact of the development.
- 128 In light of the above, it is my view that the proposed development would not be significantly harmful to the character of the surrounding area or the wider landscape and would not appear unduly prominent or visually intrusive in the street scene.
- 129 The proposal would therefore comply with policy SP1 and SP6 of the Core Strategy and policy EN1 of the ADMP, subject to conditions.

Residential Amenity

- 130 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development. The Residential Extensions SPD recommends that a 45 degree test is undertaken for a loss of light to neighbouring dwellings, based on BRE guidance.
- 131 Policy EN7 states that proposals will be permitted where a) development would not have an unacceptable impact when considered against the indoor and outdoor acoustic environment including existing and future occupiers of

the development and the amenities of existing and future occupants of nearby properties; and b) development would not result in unacceptable noise levels from existing noise sources that cannot be adequately mitigated.

Neighbouring properties

- 132 There are no residential properties in close proximity to the site. As such, it is considered that the development would not have a harmful impact on the amenities of residents in regards to light, outlook and privacy. There is no evidence to suggest that the development would result in a significant increase in noise above the existing levels.
- 133 Separate Environmental Health legislation exists outside the Planning System which can assist in enforcing against significant noise disturbance, should it occur.

Proposed development

- 134 Policy EN2 also requires that the occupants of future development benefit from good standards of amenity.
- 135 The future occupants of the site would benefit from a good standard of accommodation. The site is of an adequate scale to accommodate the facilities required.
- 136 It is noted that the site lies on a former land fill. As such, the Council's Environmental Health team were consulted on the proposals for their specialist advice. They have advised that it is very unlikely that if ground gasses were present that they would be able to accumulate given the clearance of the caravans to the ground surface. As such, they consider that there is no significant risk to future occupiers from potential contamination, subject to conditions relating to the protection of the capping layer, control of the use of the land for growing produce and the maintenance of air flow beneath the structures.
- 137 The proposal would therefore comply with policy SP6 of the Core Strategy and policy EN2 and EN7 of the ADMP, subject to conditions.

Parking and Highways Impact

- 138 Paragraph 111 of the NPPF states 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 would be severe.
- 139 Policy EN1 states that all new development should provide satisfactory means of access for vehicles and pedestrians and provide adequate parking.
- 140 The proposal would utilise an existing established access onto the site (visible on aerial photography from 2009). Adequate visibility splays would be maintained and there would be ample space on site for the parking and turning of a number of vehicles. As such, the parking and access

arrangements for the proposed development would not cause unacceptable harm to highway or pedestrian safety.

- 141 The proposals may generate some additional traffic arising from the new residential use. However, the cumulative impact of this increase on the local road network is not considered to be significant or severe to justify a refusal under the NPPF.
- 142 In this regard, the proposals are compliant with policy SP6 of the Core Strategy, policy EN1 of the ADMP and the NPPF.

Trees, Landscaping and Biodiversity

- 143 Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.
- 144 There are no trees within the site which are covered by a Tree Preservation Order and the proposal would not have an adverse impact on any important trees within the wider area. The site is unlikely to provide a habitat for protected species.
- 145 To enhance the appearance of the site and ensure that the development delivers benefits to biodiversity, full details of both hard and soft landscaping can be secured by a condition, together with ecological enhancements.
- 146 The proposal would therefore comply with policy SP6 and SP11 of the Core Strategy, policy EN1 of the ADMP and the NPPF, subject to conditions.

Flooding

- 147 The site was previously located in Flood Zone 3 but is now located in Flood Zone 2, which has been confirmed by the Environment Agency. Parts of the site are at low risk of flooding from surface water.
- 148 It is acknowledged that 08/00275/FUL, which sought planning permission for the use of the land as a private Gypsy caravan site, was refused and dismissed at appeal, in part, due to flooding issues. The primary concern was the risk to the occupants of the site and the associated demands placed on the emergency services, rather than the development increasing the risk of flooding elsewhere.
- 149 The Inspector's report stated that caravans and mobile homes intended for permanent residential use are highly vulnerable development because the instability of such structures place their occupants at special risk and they are likely to be occupied during periods when flood risk is likely to be higher.
- 150 Since the previous appeal, the NPPF has been introduced which states, under paragraph 167, that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-

specific flood-risk assessment.

- 151 Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 152 Paragraph 168 states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 55.
- 153 However, footnote 56 states that for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, the sequential and exception tests should be applied as appropriate.
- 154 Paragraph 13 of the PPTS states Local Planning Authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 155 The application is accompanied by a Flood Risk Assessment. It states that the flood risk is predominantly fluvial and originates from the River Darent, which is approximately 80m west of the site. According to modelling record data, the site lies outside of the modelled 1:100 years and 1:100 years 25% climate change flood extents. This means that an entirely dry escape route could be provided from the site during a 1:100 year -plus climate change flood event.
- 156 The Assessment goes on to set out mitigation measures, including raising the underside of the caravans to at least 300m above the flood level using axle stands, concrete blocks and packing. Flood proofing will be incorporated as appropriate and the applicant will register with the Environment Agency Floodline Warnings/Alert Direct service.
- 157 The Assessment concludes that with the proposed mitigation measures, the development would be acceptable in flood risk terms.
- 158 The Environment Agency were consulted on the proposals for their specialist advice. Within their comments, they have noted the previous appeal

decision and the previous assessment of the flood risk for the site from 2008/2009. They have advised that previous modelling overestimated flood extents and modelling for the River Darent has since been updated.

- 159 The Environment Agency have reviewed the submitted Flood Risk Assessment and are in agreement with its findings, as set out above. To reduce the risk of flooding to the proposed development and future occupiers, and to prevent flooding elsewhere, they have recommended that the Flood Risk Assessment and the proposed mitigation measures be secured by a condition.
- 160 As a result, it is considered that the proposal would be appropriately flood resistant and resilient and any flood risks could be safely managed/mitigated. The proposal would not increase the risk of flooding elsewhere.
- 161 The proposal would therefore comply with policy SP6 of the Core Strategy and the NPPF, subject to condition.

Conclusions on principle of development in light of policy SP6

- 162 The proposals can be concluded to be compliant with policy SP6 of the Core Strategy, as summarised below.

a) Suitability of location: The site lies between the existing settlements of South Darenth and Horton Kirby. It is not located in a remote location and access to services and public transport are in walking distance. There is pedestrian access to both settlements via the footpath opposite the site.

b) Living environment and facilities: The arrangements on site provide a suitable living environment and present an appropriate appearance to meet the design quality objectives of policy SP1 of the Sevenoaks Core Strategy and policy EN1 of the Sevenoaks ADMP.

c) Access: The vehicular access from Horton Road is considered to be safe and convenient. It would be necessary for occupants of the site to use the vehicular access in order to cross the road and use the pedestrian footpath opposite. While this is not an ideal situation, given the likely level of use of the access, it is not considered that this arrangement would cause significant harm to highway or pedestrian safety.

d) Flood risk: It has been demonstrated that the proposal would be appropriately flood resistant and resilient and that any flood risks could be safely managed/mitigated.

e) Townscape, landscape or biodiversity impact: For the reasons already set out within this report, while the development would result in a change in the character and appearance of the site, the impact on the character of the area and the wider landscape would not be significantly harmful. Conditions are recommended to help mitigate the visual impact of the development and ensure that the development delivers benefits to biodiversity.

f) Availability of alternative non-Green Belt sites: It is accepted by the local planning authority, and in associated appeal decisions, that given the substantial percentage of Green Belt land in the district, new site allocations for gypsies and travellers are extremely likely to be required in the Green Belt. As such, it is not considered that further information is required from the applicant in this regard.

Assessment of any Very Special Circumstances

163 Para 144 of the NPPF states that when considering any planning application, we should ensure that substantial weight is 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 any other considerations.

164 The harm in this case has been identified as:

- The harm in principle from inappropriate development in the Green Belt, which must be given significant weight.
- The harm to the openness of the Green Belt which is also given significant weight.

165 The possible very special circumstances advanced by the applicant can be summarised as:

- The site is in accordance with policy SP6 in that it provides for the unmet need for gypsy and traveller sites within the District
- The Council cannot demonstrate an up to date 5 year supply of housing
- The personal circumstances of the applicant and their dependents

166 Compliance with policy SP6:

This consideration does not alter the provision of substantial weight allocated to the Green Belt harms discussed above.

167 Need for gypsy and traveller sites:

Paragraph 27 of the PPTS states that, if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt and other specified protected areas.

168 It is recognised that the Council has an unmet need for gypsy and traveller sites. In recent appeal decisions in the District (such as Little Trees Ref: APP/G2245/C/20/3261584), Inspectors have attached substantial weight to the unmet need and lack of allocated sites. Whilst there has been progress towards addressing the identified shortfall through the grant of planning permissions, it is accepted that the absence of a supply of deliverable sites within an adopted development plan must be afforded substantial weight,

as informed by appeal decisions. Similar weight is also attached to the deficit in housing land supply.

- 169 Given the limited scale of ‘other’ harm I have identified above, and the lack of available sites (alongside the considerations mentioned below), it is considered that a temporary planning permission would not be necessary in this case - rather, if approved, the site should form part of the longer term land available to the gypsy and traveller population. This is afforded significant weight.

Personal Circumstances:

- 170 The applicant and his family have strong connections to the area and they live as an extended family. They have a need to live on the site as the applicant’s mother has health issues which are treated under the care of local health services. In addition, there is one young child (the applicant’s nephew) who would benefit from a permanent based to enrol in a local nursery/school and have consistent access to education in the near future. These factors are afforded significant weight.
- 171 Within the Validation checklist submitted alongside the application, the applicant’s planning agent states that, should the applicant and his family be required to leave the site, they would need to resort to staying on unauthorised sites in breach of planning controls. This could have welfare and safety issues for all the family and would be disruptive for education and healthcare.
- 172 The site provides stability and consistent access to medical and education services whilst allowing the family to retain their gypsy culture and nomadic way of life. It would also be in the best interests of the child to remain on the site, which is a primary consideration.

Conclusion on Very Special Circumstances:

- 173 In summary, it is considered that the unmet need and personal circumstances in this particular case amount to very special circumstances which clearly outweigh the harm identified. This approach is also in accordance with recent appeal decisions within the District.

Other issues

- 174 Area of Archaeological Potential:

The site is located in an area of archaeological potential. Since the proposals would not involve any significant groundworks, the development should not have an adverse impact.

- 175 Parish Council and Public Comments:

- 176 The comments raised by the Parish Council and during public consultation that have not been addressed within this report are considered below.

Impact on the conservation area

- 177 The site is not located in close proximity to the South Darent Conservation Area and, as such, it is not considered that the development would have an adverse impact on the setting or views of the conservation area.

Pollution

- 178 There is no evidence to suggest that the development would result in pollution and the Council's Environmental Health team have not raised any concerns in this regard.
- 179 The site is not brownfield
- 180 The NPPF defines previously developed land (brownfield land) as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
- 181 The site comprises of a stable building which was granted planning permission in 2017. Based on the above definition, which does not exclude equestrian buildings, the site could partially be considered previously developed land.
- 182 Harm to the Special Landscape Area
- 183 There is no longer a designation for Special Landscape Areas.
- 184 Stables are being replaced by caravans
- 185 The submitted drawings indicate that the existing stables on site would be retained.
- 186 No evidence that the caravans will be 'touring'. They are 'static' caravans.
- 187 The description of development refers to the stationing of three touring caravans only and this is demonstrated on the submitted plans. In my view, static caravans would be likely result in a different character of development. Furthermore, they would be likely to cause greater harm to the openness of the Green Belt than touring caravans due to their overall scale, size and height and the residential paraphernalia associated with the static caravans, such as additional hard landscaping. A condition is therefore recommend to restrict the site to three touring caravans only.

Human Rights:

188 Paragraph 3 of the Government's Planning Policy for Traveller Sites provides that:-

“The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”

189 When considering an application for planning permission for the use of land as a residential gypsy/traveller site, we need to consider whether Article 8(1) of the European Convention on Human Rights (ECHR) is engaged. Article 8(1) provides that everyone has the right to respect for his private and family life, his home and his correspondence.

190 Case law has established that Article 8(1) of the ECHR is engaged in applications for planning permission for residential gypsy/traveller sites, irrespective of whether the applicants are occupying the site as their home at the time the application is made.

191 Article 8(1) is a qualified right. Article 8(2) of the ECHR allows interference by a public authority with the right to respect where the interference accords with the law and is necessary in a democratic society for the wider public interest, in terms of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of rights and freedoms of others.

192 To refuse permission could represent an interference with the rights of the intended occupants under Article 8 of the Human Rights; this interference must be weighed against the wider public interest.

193 The assessment above demonstrates harm, which could be considered to be against the wider public interest. However, given the lack of available sites to accommodate the gypsy and traveller community, as well as the personal circumstances described above, the need to protect the occupants' rights under the ECHR must be given some weight in favour of the application.

Public Sector Equality Duty:

194 Due regard is required to the public sector equality duty (PSED) under Section 149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) 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. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas

where they are underrepresented) of people with a protected characteristic(s);

- Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding;
- The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation;

195 The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve a specific outcome. The level of consideration required (i.e. due regard) will vary with the decision including such factors as:

- The importance of the decision and the severity of the impact on the Council's ability to meet its PSED;
- The likelihood of discriminatory effect or that it could eliminate existing discrimination.

196 In this regard, I have attached weight to the need to protect the nomadic way of life of the gypsy and traveller community in my consideration.

Planning balance

197 As the Council cannot demonstrate a 5 year housing supply at this time, the tilted balance of NPPF paragraph 11d) is relevant. The recommendation is for approval and the need to deliver housing adds further weight in favour of granting planning permission.

Community Infrastructure Levy (CIL)

198 This proposal is not CIL liable.

Conclusion

199 The case for very special circumstances would clearly outweigh the harm to the Green Belt and, in every other respect, the proposal would be an acceptable form of development that complies with local and national policies, subject to the recommended conditions.

200 It is therefore recommended that this application is GRANTED.

Background papers

Site and block plan

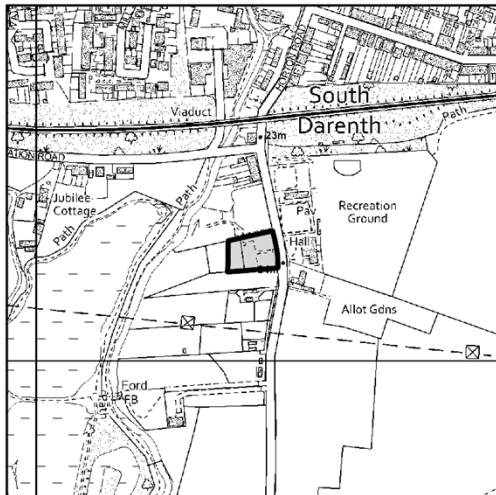
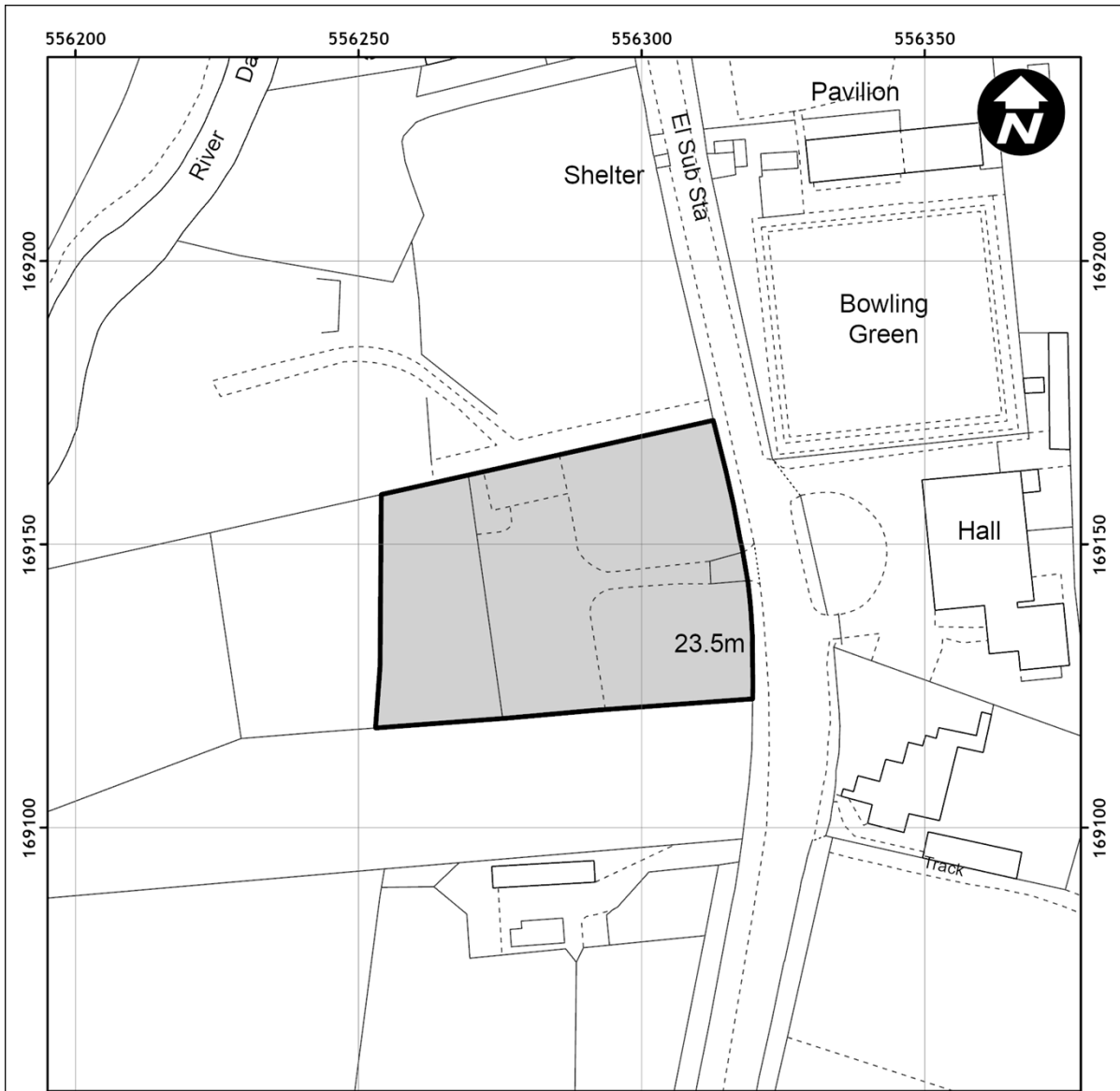
Contact Officer(s):

Hayley Nixon: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

Scale 1:1,250

Date 10/05/2023



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Ordnance Survey 100019428.

PROPOSED SITE PLAN

Proposed Site Plan 1:200

