

Application No: Y19/0958/FH

Location of Site: Land adjacent to The Retreat, Lydd Road, Old Romney, Kent, TN29 9SG

Development: Construction of access road and the provision of 5 static mobile homes and a community hall to provide accommodation as a traveller's site.

Applicant: Mr. Robert Penfold

Agent: Mr. Edmund Dewelus

Officer Contact: Robert Allan

SUMMARY

The proposal is for the use of the site as a traveller's site and seeks permission for the change of use of land from agricultural to a caravan site and for the stationing of five static mobile homes and a building for use as a community hall, together with the construction of an access road and associated parking. The site is proposed to be allocated as a gypsy and traveller site in emerging policy RM15 of the Places and Policies Local Plan Submission Draft and would be in accordance with the overarching aims of this policy and the emerging development plan. It is considered that given the advanced stage of the emerging plan, significant weight can be given to policy RM15. With suitable mitigation to address the visual impact of the caravans and conditions to address other matters in respect of drainage, biodiversity and flooding it is considered that the proposal accords with the emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework and the Planning Policy for Traveller Sites 2015.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee at the request of Councillor Tony Hills.

2. SITE AND SURROUNDINGS

2.1. The application site is an approximately 1.5 hectare piece of land to the south of the A259 Lydd Road, to the west of New Romney and outside of the defined settlement

boundary. To the east are three detached dwellings, The Retreat, The Venture and Sandycroft. The site has two distinct plateaus, with land levels varying between 1.8m and 3.7m above Ordnance Datum Newlyn (AODN) across the site, with the north of the site forming part of the Rhee Wall, a 13th Century Medieval structure, which is elevated above the surrounding area, but below the adjacent road. Consequently, the application site is within an area of archaeological potential. A loose hedge runs along the southernmost extent of the Rhee Wall feature from west to east, with groups of trees and shrubs also conspicuous along the western and southern boundaries. The northern boundary adjacent to the A259 is predominantly open. The site is within a designated Local Landscape Area.

- 2.2. With regard to flood risk, the part of the site to the south of the Rhee Wall is identified on the Environment Agency's flood risk maps as being within zones 2 and 3a (having a 1 in 100 or greater annual probability of river flooding; or Land having a 1 in 200 or greater annual probability of sea flooding). The Council's Strategic Flood Risk Assessment (SFRA) identifies the area approximately 14 metres further to the south of the Rhee Wall as being at moderate risk should flooding occur, when accounting for predicted sea levels as a consequence of climate change to 2115, turning to significant risk at the southern point of the site (figure 1).

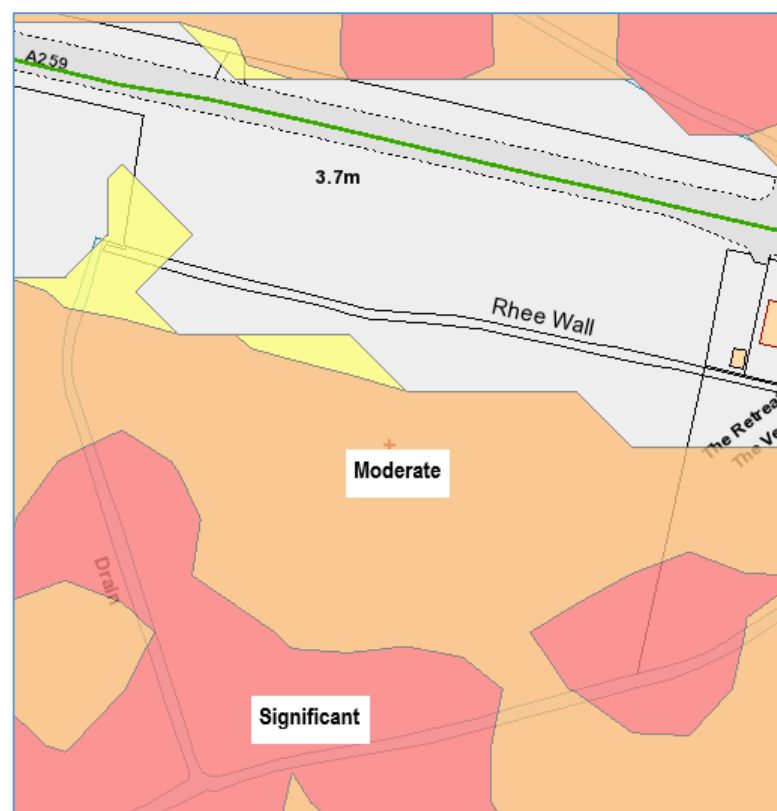


Figure 1

- 2.3. At the time of application being submitted, the change of use, stationing of mobile homes and associated works had already taken place within the site. The works that have been carried out include:

- An access way of compacted hard-core material running from the A259 and projecting into the site beyond the Rhee Wall to form a 'hammerhead';
- five concrete hard standings;
- four static caravans placed on the hard standings, with another on a trailer at the time of the site visit;

- associated power supply and drainage works, including a package sewage treatment plant;
- erection of a timber post and rail fence across the northern boundary of the site following the A259.

2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Full planning permission is sought for the change of use land from agricultural to a caravan site and for the stationing of five static mobile homes and a building for use as a community hall, construction of an access road and associated works. Works had been carried out in advance of the application being made, with five residential caravans in position on the lower part of the site and the access road installed, as per the layout shown in figure 2 below. The community hall, intended as a meeting point for the site residents only, had not been installed. The site layout has been amended during the course of the application to show four of the residential units positioned at the foot of the Rhee Wall, within the zone identified as being at moderate risk within the SFRA 2115. This shows the fifth unit to be re-positioned on the higher ground, together with the community hall. The revised layout is shown in figure 3.

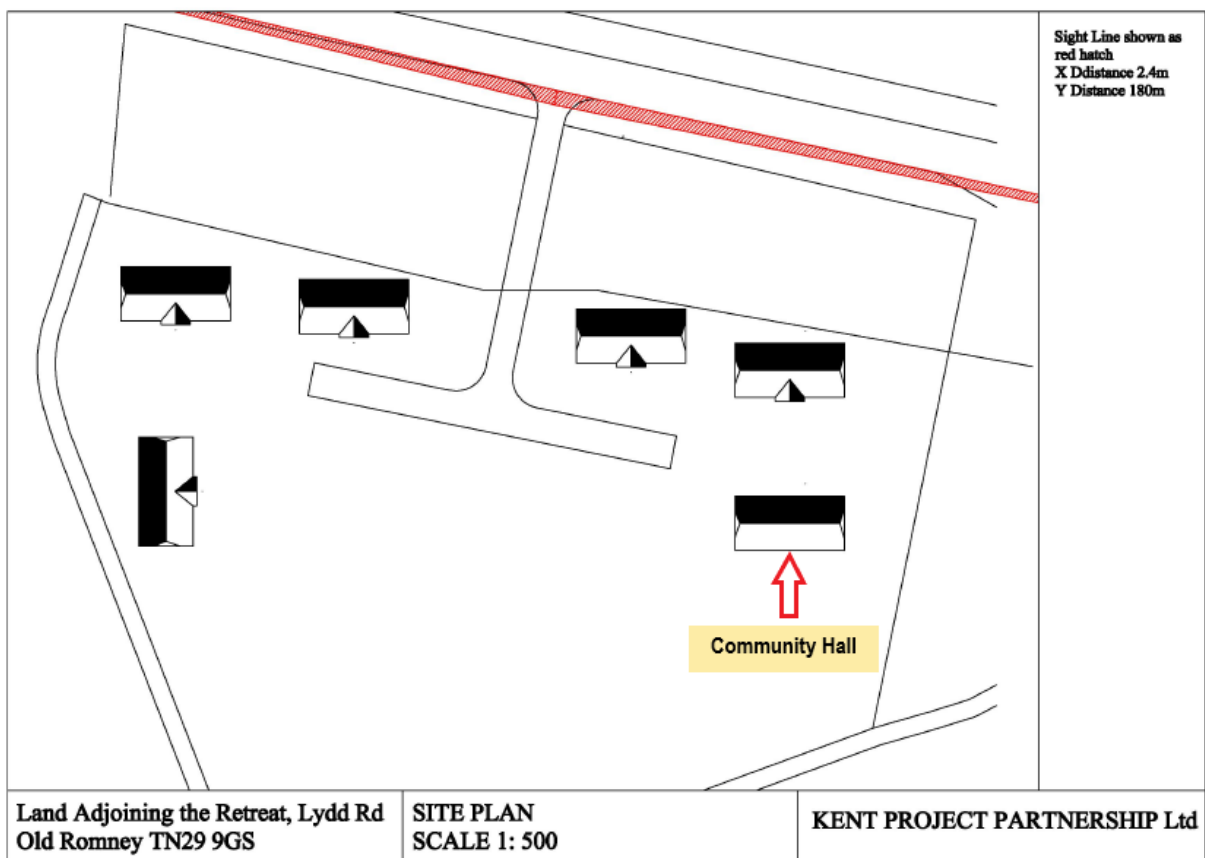


Figure 2: layout as submitted

3.2 The applicant has submitted an ecological scoping survey during the course of the application and has relied upon a site-specific flood risk assessment (FRA) carried out by Folkestone and Hythe District Council as part of the evidence base to support the emerging allocation of this site as a Gypsy and Traveller residential site (emerging

policy RM15). This FRA was also accompanied by a Flood Warning and Evacuation Strategy.

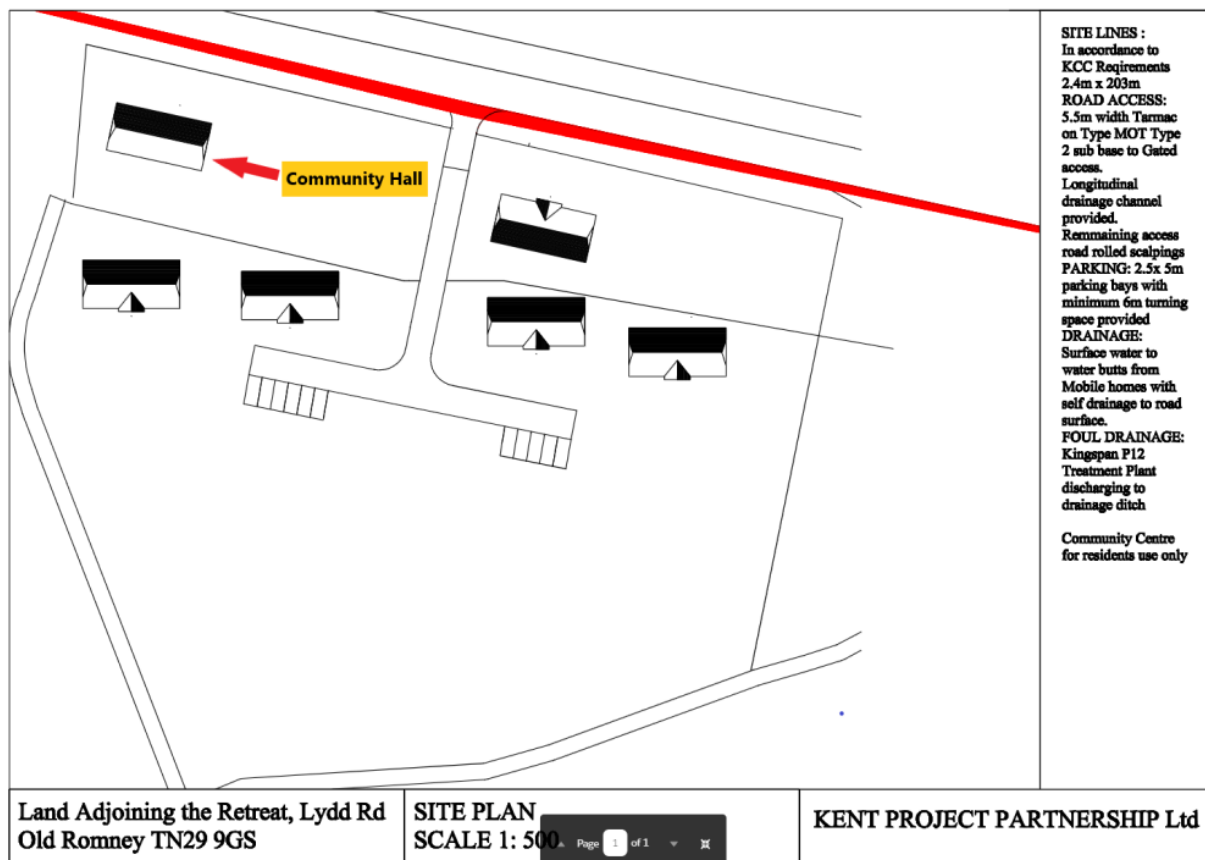


Figure 3: layout as amended

3.3 Flood Risk Assessment

The FRA identifies that the site benefits from coastal defences which have a 1 in 200 year standard of protection so that, even at 2115 levels when sea levels are expected to have risen due to climate change, the site will only be at risk of flooding in the unlikely event that the defences were to fail at the same time as an extreme storm event. Predicted flood depth would be a maximum of 0.88m toward the southern boundary of the site, with an estimate of 20 hours taken for the floodwater to reach the site and a further 6 hours before peak predicted levels are reached. The FRA identifies the following measures and recommendations:

- All 'highly vulnerable' uses (permanent residential pitches) should be located within Flood Zone 1 (outside the predicted extent of flooding)
- An easement of 4 metres should be maintained from the toe of the bank of the drainage ditches to ensure a buffer for access and biodiversity;
- If any amenity buildings and storage units cannot be located outside the predicted extent of flooding, the floor level of these units should be raised to 2.58m AODN where possible, otherwise flood resistance measures should be proposed to limit the risk of floodwater ingress;
- Flood resilience measures should be incorporated into the design of the amenity and storage units;
- The owners of the site should sign up to the Environment Agency's Flood Warning Service and the FEP (Flood Evacuation plan) prepared as part of this report should be disseminated;

- The proposed development should be designed to incorporate SuDs to control rate at which runoff is discharged from the development, ideally mimicking the greenfield runoff rates;
- Adequate space should be provided to incorporate surface water storage and a foul water packaged treatment plant.

3.4 Flood Warning and Evacuation Plan

The report identifies the risks, responsibilities, actions and procedures relevant to this site should flooding occur, with the key actions being that:

- Site managers / permanent residents should be trained in the flood evacuation procedures outlined in the report and should ensure that a system is in place to receive and monitor flood warnings (such as the Environment Agency Flood Warning Service);
- A system should be adopted that ensures all new occupants of the site are provided with access to the Emergency Flood Warning and Evacuation Plan and know the procedures and routes during an evacuation.

3.5 Ecological Scoping Survey

The survey identifies the features of the application site as well as its location in respect of designated sites such as the Dungeness, Romney Marsh and Rye Bay SSSI and Midley Chapel Pasture Local Wildlife Site. The methods employed to survey the site are also set out within the report.

The survey identifies 44 species of plants and animals, but no evidence of the presence of any BAP (Biodiversity Action Plan), KRDB (Kent Red Data Book) or other notable species was found on site, including bats, reptiles, badgers great crested newts or water voles.

Recommendations include:

- No potential bird breeding habitat should be cleared between late March to the beginning of August inclusive, with old crack willows subjected to detailed ecological survey if they are to be felled;
- A biodiversity plan for the development should be sought, including the provision of bird and bat boxes, log piles for invertebrates, bumble bee nest boxes and pollinator resources, provision for some of the species on the Kent BAP species list (where applicable to site / conditions), a scheme of native species landscaping.

4. RELEVANT PLANNING HISTORY

4.1 There is no recorded planning history for this site.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Old Romney Parish Meeting: Object.

- Work has already commenced and the caravans on site are being lived in.
- Planning Policy for Traveller Sites identifies that sites should not be located in areas at high risk of flooding and the caravans have been placed in flood risk zones 2 and 3.
- Screening criteria for site selection have been ignored, with the site more than 500m from the nearest settlement boundary. Old Romney has no facilities, with shops, schools, doctors and other services 2 miles drive away, with no pedestrian footways.
- Why wasn't consideration given to sites without adjacent properties? The proposal will impact upon the lives of the occupants and the land values.
- Alternative sites were identified by consultants.
- Will the properties be listed on the electoral roll and subject to Council Tax?
- How will the Community Hall be policed and what is the justification for this?
- Will there be or has there been any funding/financial assistance received by District or County Council for creating the site?
- Will there be restrictions on the site limiting use to the owners and family, or will passing travellers be able to use it?
- There are a disproportionate number of gypsy and traveller sites on the Romney Marsh.

Brenzett Parish Council (Neighbouring Parish): Object.

- Work has already commenced with caravans on site.
- No car parking for the mobile homes or Community Hall are identified.
- What will the Community Hall be used for? Is it for wider residents of Romney Marsh; if not, it is considered discriminatory.
- Insufficient detail regarding the water treatment plant.
- Entrance/exit road is not wide enough for two cars; there is no lighting at the junction; there are no signs to indicate the new junction.
- The erection of fences adjacent to the dykes surrounding the site will impact their clearing / maintenance.
- The number of homes on site may escalate.
- The family lived in a house in Brenzett for 15 years.
- The risk of flooding at the site should have been considered, with national guidance highlighting the vulnerability of caravans.
- There are a disproportionate number of gypsy and traveller sites on the Romney Marsh.
- The location of the site is isolating and does not promote co-existence.
- Appropriate wildlife surveys should be conducted.

New Romney Town Council (Neighbouring Town Council): No objection.

KCC Highways and Transportation: No objection following confirmation that the community hall will be for residents of the site only. KCC have requested conditions including a Construction Management Plan, completion of the access road prior to occupation, use of a bound surface for 5m from the edge of the highway, measures to prevent surface water discharging onto the highway, visibility splays, retention of parking spaces and electric vehicle charging points for each dwelling if officers feel this is appropriate.

KCC Ecology: No objection.

Sufficient information has been provided.

Habitat Loss/Degradation

- The distance involved means no assessment of recreational pressures are needed regarding the Dungeness, Romney Marsh and Rye Bay SSSI.
- The ecology of the aquatic/semi-aquatic habitats surrounding the development site could be compromised if appropriate drainage/waste removal is not incorporated into the development.
- If sections of hedgerow are to be removed to facilitate the development, we advise that replacement planting is included within the enhancement plan. If the entire hedgerow is to be removed, a separate compensation planting plan should be submitted.

Breeding Bird Informative

It is suggested that the following informative is included with any planning consent:

- The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

Ecological Enhancements

- Paragraph 175 of the National Planning Policy Framework 2019 encourages the implementation of enhancements for biodiversity. Examples include the provision of bird/bat boxes and the planting of native species (especially important if any vegetation removal is to take place). As such, to secure the implementation of enhancements, we advise that a condition is attached to planning permission.

KCC Flood and Water Management: Holding objection.

The drainage strategy proposes a storage basin with discharge of surface water via a Hydrobrake into the existing ditches.

1. The FRA does not include a surface water drainage plan or drainage arrangement so therefore it is not possible to review the drainage strategy proposed or the adequacy of the spatial arrangements.
2. Micro drainage calculations have been provided within the Flood Risk Assessment for a 100 year storm event + 40% for climate change which show flooding at MH2 with a flooded volume of 364m³. This is unacceptable and will need to be addressed.
3. The site falls with Flood Zones 2 and 3 which signifies the importance to manage the flood risk adequately.

In general we do not disagree with the approach taken but there is a degree of uncertainty as to the sizing and location of elements of the drainage strategy proposed and whether this proposal is sufficient to provide the appropriate control of surface water generated from the site.

Environment Agency: No objection.

The relocation of the southernmost unit to high ground enables us to remove our objection to the proposal. The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition:

The development shall be carried out in accordance with the submitted flood risk assessment (Herrington Consulting August 2019) and the following mitigation measures it details:

- Finished floor levels shall be set at a minimum of 600mm above the design flood level of 2.58m above Ordnance Datum (AOD). The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Romney Marshes Area Internal Drainage Board: No objection.

Consent under Section 23 Land Drainage Act 1991 will be required for the proposed surface water outfalls and of any outfalls serving package treatment plants.

KCC Archaeology: No objection.

As long as any remaining works do not impact on the remains of the earthworks that run west-east through the site to the south of this remaining unit in the north-west of the plot, then it is unlikely there will be any significant ground archaeological remains that will be impacted by the creation of the track, parking area and pad.

Local Residents Comments

5.2 Four neighbours directly consulted. Five letters of objection, six letters of support received

5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Why has the development been allowed to go ahead without consent?
- Land is identified as being prone to flooding;
- Overlooking and loss of privacy;
- Noise and disturbance will arise from the community hall;
- Noise and disturbance from the coming and going of vehicles;
- Detrimental impact upon ecology at and around the site;
- Site is in a prominent position in the open countryside;
- No signs to warn of slowing vehicles.

Support

- Good local family from within community;
- Opportunity for travellers to reside without being moved on;
- Site will be well kept;
- The entrance to the site is considered safe;
- The proposal meets the Council's requirement.

5.4 Ward Member

Cllr Tony Hills

- Having visited the site and seen (and measured ground clearance) that the risk to life in a breach flood (flood zone three) is negligible to zero, I have read in some supporting flood risk information that it would take 20 hours for sea water to reach the site following a breach at Lydd Ranges.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013)

6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local

Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.4 The relevant development plan policies are as follows:-

Shepway District Local Plan Review (2013)

SD1 – Sustainable Development
CO5 - Protection of Local Landscape Areas
CO11 – Nature Conservation
BE1 - Layout, design, materials of new development
TR5 - Cycling facility provision for new developments
TR11 - Access onto highway network
TR12 - Vehicle parking standards
HO1 - Housing land supply
U4 - Protection of ground and surface water resources

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development
SS1 - District Spatial Strategy
SS2 - Housing and the Economy Growth Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
CSD2 - District Residential Needs
CSD4 – Green infrastructure

Places and Policies Local Plan Submission Draft (2019)

RM15 - Land adjacent to 'The Retreat', Lydd Road, Old Romney
HB1 - Quality Places through Design
HB2 - Cohesive Design
HB14 – Accommodation for Gypsies and Travellers
T1 - Street Hierarchy and Site Layout
T2 - Parking Standards
T4 - Cycle Parking
NE2 – Biodiversity
NE3 – Protecting the District's Landscape and Countryside
HE2 – Archaeology

Core Strategy Review Submission draft (2019)

SS1 – District Spatial Strategy
SS2 – Housing and the Economy Growth Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
CSD2 – District Residential Needs
CSD4 - Green Infrastructure

6.5 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2019 and Planning Policy for Traveller Sites (PPTS) (Re-issued)

- 6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.
- 6.7 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012, with the PPTS re-issued in August 2015 with amendments and the NPPF updated in 2019. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes it clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 6.8 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) generally support the provision of gypsy and traveller sites at appropriate locations within the countryside, recognising that it is not normally possible to provide such sites within the designated built up areas. They also aim to minimise harm to visual and residential amenity.
- 6.9 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) **an economic objective** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) **a social objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) **an environmental objective** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and*

6.10 In relation to rural housing the NPPF (at paragraph 78) states;

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

6.11 Paragraph 79 continues:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*
 - *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

6.12 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Planning Policy for Traveller Sites (PPTS)

6.13 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims are set out below:

“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.” (para 3 PPTS)

To help achieve this, Government’s aims in respect of traveller sites are:

- a. that local planning authorities should make their own assessment of need for the purposes of planning*
- b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

6.14 In terms of plan making the PPTS advice is that;

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community*
- b) promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) ensure that children can attend school on a regular basis*
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) avoid placing undue pressure on local infrastructure and services*
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*

- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

6.15 For sites in rural areas and the countryside the PPTS advice is that;
“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

6.16 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“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”*

“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.” (para 25 PPTS).

6.17 Policy HB14 of the PPLP relates to accommodation for Gypsies and Travellers and states that:

“Planning permission will be granted for gypsy and traveller accommodation which will contribute to meeting the needs of those households conforming to the definition set out in 'Planning policy for traveller sites', subject to the following:

- 1. The development safeguards the health of occupiers and provides a satisfactory level of amenity for them, by reference to factors including but not limited to: the space available for each family; noise; odour; land contamination; other pollution or nuisance; flood risk; and the disposal of refuse and foul water;*
- 2. The site is in a sustainable location, well related to a settlement with a range of services and facilities and is, or can be made, safely accessible on foot, by cycle or public transport;*
- 3. Adequate vehicular access, sight lines and space for turning and manoeuvring can be provided;*

4. *The development will not give rise to an unacceptable impact on amenity for residents in the vicinity of the development, or, in the case of nearby commercial users, result in the imposition of new constraints on the way in which such users can operate their businesses;*
5. *If the proposal involves the development of land originally identified in this Local Plan for another purpose, the loss of such land is justified by the desirability of providing additional gypsy and traveller accommodation; and*
6. *There is no adverse effect on the landscape, environmental or other essential qualities of countryside, including the Kent Downs Area of Outstanding Natural Beauty or Natura 2000 sites, Sites of Special Scientific Interest, national or local nature reserves or heritage assets.*

The exception to the above criteria relate to applications for the expansion of existing permitted gypsy and traveller sites, in which case only criteria 1 and 4 will apply. However, it must be demonstrated that those households still conform to the gypsy and traveller definition, and that expansion will result in additional gypsy and traveller pitches”.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *‘Well designed places are visually attractive and aim to delight their occupants and passers-by’.*
- N3 - Support rich and varied biodiversity

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development
- b) Flooding
- c) Visual amenity
- d) Residential amenity
- e) Ecology and biodiversity
- f) Drainage

- g) Archaeology
- h) Highway safety
- i) Human Rights

a) Principle of development

- 7.2 NPPF Paragraph 59 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed; and that land with permission is developed without unnecessary delay. Furthermore, Planning Policy for Traveller Sites (PPTS) paragraph 4 requires LPA's to make their own assessment of need and develop fair and effective strategies to meet need through the identification of land for sites.
- 7.3 The Core Strategy (2013) Policy CSD2 states that residential development should meet the specific requirements of vulnerable or excluded groups. The accommodation needs of specific groups will be addressed based on evidence of local need including Gypsies and Travellers. The Folkestone & Hythe District Council Gypsy, Traveller and Travelling Showpersons Accommodation Assessment 2018 (F&HDC GTAA) identifies a need for five permanent residential pitches to 2037. This has been reduced to four following the grant of planning permission for an additional pitch on a site at Brenzett.
- 7.4 The application proposal responds to emerging policy RM15, which seeks to allocate the site for four permanent gypsy and traveller pitches. Policy RM15 is currently being considered as a Main Modification to the Places and Policies Local Plan (PPLP) as part of its Examination in Public. At the time of writing, the Council are awaiting the Inspector's report. In seeking to allocate the site, the Council have undertaken a Sustainability Appraisal and have considered alternative sites and this site was subsequently selected as the preferred option.
- 7.5 Although the proposed site allocation and the plan itself are not yet formally adopted, it should be noted that Policy HB14 of the emerging PPLP provides criteria in line with national policy to determine applications for traveller sites. The policy is considered to hold significant weight in accordance with the criteria set out in NPPF Paragraph 48.
- 7.6 Members will note the inclusion of a fifth caravan on the site, and while this is greater the Council's requirement for four caravans, it would boost the Council's 5 year supply (which is a minimum) and would contribute to making a more effective use of the land as required by the NPPF.
- 7.7 While not specifically mentioned in the Council's requirements, the inclusion of a community hall is also considered to be acceptable as it is considered to contribute towards providing appropriate facilities in accordance with the cultural needs of the applicants. As such, there are therefore no objections to the quantum of development proposed on site. Consequently, the proposal is considered to comply with the emerging policy, subject to all other material planning considerations being considered acceptable.

b) Flooding

- 7.8 The site covers an area of approximately 1.5ha and the Rhee Wall - a medieval watercourse designed to remove silt from the historic harbour at Romney - is raised above the level of the marsh and runs across the northern part of the site. Beyond the Rhee Wall to the south, the site then drops down approximately 1 metre to the marsh plateau.
- 7.9 The Environment Agency's flood mapping shows that the lower part of the site is within Flood Zones 2 & 3. The Council Strategic Flood Risk Assessment (SFRA) – 2115 scenario accounting for climate change – also shows the same area as being at moderate to significant risk of flooding.
- 7.10 National Planning Practice Guidance states that permanent caravan sites are classed as “highly vulnerable development”; whilst Paragraph 13 of Planning Policy for Traveller Sites states that local planning authorities should not: *“locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans”*.
- 7.11 The Council commissioned Herrington Consulting Ltd to prepare a Flood Risk Assessment (FRA) to support the site allocation for gypsy and traveller pitches in the Places and Policies Local Plan. This FRA was submitted to support the application and confirms that whilst the southern part of the site would be affected by an extreme weather event in combination with other factors, the northern part of the site atop the Rhee Wall would remain dry. As such, the acceptability of the allocation for gypsy and traveller accommodation is on the basis that the permanent residential caravans i.e. sleeping accommodation; are located in Flood Zone 1. Other elements, such as the proposed ‘community building’, storage, and parking could all be situated on the lower part of the site but should incorporate flood resistance and resilience measures. Paragraph 157 of the NPPF requires all plans to apply a sequential risk-based approach to the location of development – taking into account the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment provides the basis for applying the test. In this case a sequential test was carried out as part of the evidence base for the site allocation in policy RM15. The NPPG makes clear that where it has been carried out at site allocation stage, the sequential test does not need to be carried out again at the development management stage.
- 7.12 The site layout has been amended during the course of the application (figure 3 above) to show four of the residential units positioned at the foot of the Rhee Wall, within the zone identified as being at moderate risk within the SFRA. The fifth unit, which was within an area of significant risk (SFRA) and Flood Zones 2 and 3, has been re-positioned on the higher land, together with the community hall. Final comments received from the Environment Agency accept this amended layout and it is considered that the proposal would be acceptable with regard to flood risk in accordance with part 1 of emerging policy HB14 and parts 1 and 2 of emerging allocation RM15. As such it is considered that the development would be safe for its lifetime and would provide wider sustainability benefits in providing accommodation for the gypsy and traveller community. As such it is considered the proposal passes the exceptions test.

c) Visual amenity

- 7.13 This site is within the countryside and within a designated Local Landscape Area, as protected by emerging policy NE3, which sets out that *“Proposals should protect or enhance the landscape character and functioning of Local Landscape Areas. The Council will not permit development proposals that are inconsistent with this objective, unless the need to secure economic and social wellbeing outweighs the need to protect the area’s local landscape importance”*. Emerging policy HB14 also sets out that in considering gypsy and traveller accommodation, applications will be accepted where *“there is no adverse effect on the landscape, environmental or other essential qualities of countryside”*. Paragraph 14 of Planning Policy for Traveller Sites sets out that *“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community”*.
- 7.14 The site is adjacent to existing built development, with four of the caravans set down on the lower terrace of the site, into the site and behind established, if sporadic, hedgerow. The community hall and fifth caravan are proposed to sit on the upper terrace of the Rhee Wall and would be more readily visible from the A259, with this boundary having only limited vegetation toward the western end. Consequently, there is a detrimental impact upon the visual character of the countryside from the introduction of the caravans to the site.
- 7.15 To mitigate the visual harm to the countryside and Local Landscape Area, the applicant has expressed that they would be willing to provide significant additional planting to the site and it was evident that some had already taken place, with the hedgerow running along the line of the Rhee Wall having been augmented. If permission were granted, a condition could be imposed to require a full landscaping scheme, in accordance with point 8 and 9 of emerging policy RM15. This would provide native hedgerow planting and natural screening that would develop over time and also contribute toward enhancing biodiversity (see later section). Whilst this would not alleviate all visual impact, as the entrance to the site would still afford views of the caravans, as planting matured and established, it would significantly reduce the visual impact of the scheme to an acceptable level of harm in the long term, in accordance with emerging policies RM15, EB14 and NE3.

d) Residential amenity

- 7.16 The site is located to the west of three detached dwellings, The Retreat, The Venture and Sandycroft. It is not considered that use of the site for the stationing of mobile homes would give rise to unacceptable impacts upon neighbouring amenity in terms of noise and disturbance, being overbearing, loss of light or privacy due to the low scale nature of the development together with the separation distance of the caravans to the nearest dwellings, which are approximately 50m away. As such, the application is not considered to be in conflict with policy SD1 of the Local Plan which seeks to safeguard and enhance the amenity of residents or policy HB1 of the PPLP which seeks for development to not have an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.

e) Ecology and biodiversity

- 7.17 The findings of the submitted ecological scoping survey have been assessed by KCC Ecological Advice Service and found to be acceptable. In respect of habitat loss/degradation, there would be no likely impact upon the designated Dungeness, Romney Marsh and Rye Bay SSSI in relation to recreational pressures due to the distance involved. The ecology of the aquatic/semi-aquatic habitats surrounding the development site could be compromised if appropriate drainage/waste removal is not incorporated into the development, and an enhancement plan would be required to detail replacement planting, with the fine detail of these items able to be secured in an appropriately worded condition.
- 7.18 For breeding birds, an informative reminding the applicant of the Wildlife and Countryside Act 1981 with ecological enhancements, as required by paragraph 175 of the NPPF, secured via condition. Consequently, there are no detrimental impacts upon ecology and biodiversity in accordance with emerging policies NE2, RM14 or HB14.

f) Drainage

- 7.19 The site currently discharges surface water runoff informally to field drainage ditches located along the southern and western boundaries of the site. The drainage strategy within the supporting FRA proposes a storage basin with discharge of surface water via a hydrobrake into existing ditches. Few details have been provided with regards to foul drainage.
- 7.20 Whilst KCC as Lead Local Flood Authority agree with the approach, additional detail in respect of the sizing and location of elements of the surface water drainage solution is required and a holding objection has been placed. It is considered that the details required could be sought, via condition, should permission be granted for both surface water and foul drainage.

g) Archaeology

- 7.21 The site lies on and straddles the medieval Rhee Wall, parts of which near Snargate are a Scheduled Monument. KCC Archaeology have taken a pragmatic approach to the consideration of the application, as the majority of it is retrospective, with no realistic prospect of being able to assess any archaeological potential at this late stage.
- 7.22 Their position is that as long as any remaining works do not impact on the remains of the earthworks that run west-east through the site (aerial photography indicates that the line of the Rhee Wall and possibly associated earthworks and certainly below ground archaeological remains is defined by a line of bushes and vegetation running east – west across the site), it is considered unlikely there will be any significant ground archaeological remains that will be impacted by the creation of the track, parking area and pad and no further measures are sought.
- 7.23 As such, in respect of archaeology, it is considered that the proposal is in accordance with emerging policies RM15, HB14 and HE2.

h) Highway Safety

- 7.24 The proposal includes the retention of a single access point to the A259. Following discussions with KCC Highways & Transportation, it has been established that

appropriate sightlines can be provided across highway-owned land and are adequate to serve the development. This would be subject to a condition to ensure these are maintained.

- 7.25 There is also sufficient space within the site to allow for the off-street parking of vehicles, as well as to allow them to manoeuvre and exit the site in a forward gear. As a consequence, there are no outstanding highway safety concerns and the application is considered to be acceptable with regard to emerging policies T1, T2, HB14 and RM15. KCC have requested a Construction Management Plan, however given that the application is partly retrospective, this is not considered to be necessary.

Environmental Impact Assessment

- 7.26 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

3.26 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

- 7.27 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

Human Rights

- 7.28 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.29 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.30 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 The development meets an identified need for pitches, as identified by the Folkestone & Hythe District Council Gypsy, Traveller and Travelling Showpersons Accommodation Assessment 2018, at a site that is proposed to be allocated within the emerging Places and Policies Local Plan for this purpose, as part of emerging policy RM15.
- 8.2 Following amendments to the scheme, the proposal is now considered acceptable with regard to the identified flood risk within the area and has been assessed as having no significant detrimental impact in relation to residential amenity, archaeology or highway safety, with any possible impacts upon the visual character and drainage able to be appropriately mitigated through the use of suitably-worded conditions.
- 8.3 It is considered that the proposal accords with emerging policies RM15 and HB14 and meets the requirements of the PPTS and NPPF in respect of providing homes for all.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. Within 3 months of the date of this grant of planning permission the development hereby permitted shall be laid out in accordance with the approved site plan received 04 June 2020 and shall be retained throughout the lifetime of the development. , .

Reason:

In the interests of the safety of the occupants in the event of flooding.

DCL/20/05

2. Within 3 months of the date of this grant of planning permission the development shall be adapted to ensure finished internal floor levels of all caravans are set at a minimum of 600mm above the design flood level of 2.58m above Ordnance Datum (AOD) and retained as such throughout the lifetime of the development.

Reason:

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

3. Within 3 months of the date of this grant of planning permission the development shall adhere to the recommendations of the submitted Flood Warning and Evacuation Strategy (Herrington Consulting August 2019).

Reason:

In the interests of the safety of the occupants in the event of potential flooding in the area.

4. The site and caravans hereby permitted shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites (August 2015) or as may be defined in any subsequent Circular or Government guidance published as a replacement for it.

Reason:

The site is outside any area in which residential development would normally be permitted and in granting this permission the Local Planning Authority has had regard to the need identified by the Folkestone & Hythe District Council Gypsy, Traveller and Travelling Showpersons Accommodation Assessment 2018.

5. The use of the site hereby permitted shall be restricted to the stationing of no more than five static caravans and one community hall at any one time.

Reason:

For the avoidance of doubt and in order to safeguard the character, appearance and visual amenity of the countryside location.

6. The community hall shall be used by residents of the site only in connection with the use of the site as a caravan site for gypsies and travellers and shall not be used for sleeping accommodation at any time.

Reason:

In the interests of neighbouring residential amenity and flood risk.

7. Within three months of the date of this planning permission, full details of the means of foul and surface water disposal from the development shall be submitted to the Local Planning Authority for approval in writing, together with a timetable for their implementation, with such details as approved, implemented and/or maintained in a functional condition thereafter in accordance with the approved timetable.

Reason:

To ensure proper drainage and avoid pollution and flooding of the area.

8. Within three months of the date of this permission, details of how the development will enhance biodiversity shall be submitted to the Local Planning Authority for approval in writing, together with a timetable for their implementation. This shall include recommendations as set out in section 4.10 of the submitted Ecological Scoping Survey (Martin Newcombe March 2020). The approved details shall be implemented in full in accordance with the approved timetable.

Reason:

In the interests of securing enhancements for biodiversity.

9. Within three months of the date of this permission, a landscaping scheme for the site, including an implementation programme and maintenance schedule, incorporating the recommendations of the Ecological Scoping Survey (Martin Newcombe March 2020) shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be carried out in accordance with the approved details and implementation programme unless an alternative timescale has first been agreed in writing with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

Reason:

In order to protect and enhance the appearance of the area.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no development falling within Class A of Part 2 of Schedule 2 to the said Order shall be carried out without the prior consent in writing of the Local Planning Authority.

Reason:

In the interests of visual amenity.

11. No external lighting shall be installed on the land, the subject of this application, without the prior submission to and approval in writing of details by the Local Planning Authority. The installation of any external lights shall only be in accordance with the approved details.

Reason:

In order to reduce light pollution and maintain the undeveloped character of the countryside.

Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between

1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

2. Romney Marsh Area Internal Drainage Board consent under Section 23 of the Land Drainage Act 1991 will be required for the proposed surface water outfalls and for any outfalls serving package treatment plants.

Attachments:

Appendix 1 – Site Location Plan