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Dear Sir/Madam

**Re Objection to planning appeal 2021/00023/REF – Retrospective application for change of use of the land for the siting of one mobile home, toilet and one touring caravan and creation of vehicle access off a classified highway.**

**Land North of Harvel Road, Meopham, Gravesend, Kent**

### **Introduction**

- 1.01 We write to lodge an objection to the above appeal on behalf of Meopham and Vigo Parish Councils. We have been retained on an equal basis to lodge this objection.
- 1.02 We have assessed the planning appeal and would wish to raise a number of fundamental issues with the application. We have referred to the following documents in formulating this response;
- National Planning Policy Framework (NPPF)
  - Planning Policy for Traveller Sites (PPTS)
  - Gravesham Local Plan Core Strategy (2014, and reference to 2019 Review)
- 1.03 We have considered the applicant's appeal statement, as well as the accompanying appendices which have been submitted as part of the planning application.
- 1.04 We understand the following reasons for refusal were ;
1. *The proposal is considered to comprise an inappropriate development in the Green Belt that introduces a significant expanse of man-made structures and features into this wooded, rural location, encroaching over the countryside and causing substantial detriment to the openness of the Green Belt and conflicting with the purpose that this is included within it. There are no very special circumstances that exist that would outweigh the harm resulting from the proposal by reason of inappropriateness or any other harm. The development is therefore contrary to paragraphs 61, 133, 134, 143, 144 and 146 of the National Planning Policy Framework 2019, Policy E of the Planning Policy for Traveller Sites 2015 and Policies CS02 and CS17 of the Gravesham Local Plan Core Strategy 2014.*

2. *The mobile home, caravan and associated structures, features and detritus on the site are wholly out of character with their natural rural woodland surroundings and therefore appear completely incongruous and detrimental to the visual and special characteristics of the site. The development has failed to improve the landscape or conserve the ancient woodland and is considered harmful to the setting of the Kent Downs Area of Outstanding Natural Beauty with no opportunity for mitigation. The development is therefore contrary to the requirements of paragraphs 170 and 172 of the National Planning Policy Framework 2019, Policies CS12 and CS19 of the Gravesham Local Plan Core strategy 2014, the Kent Downs AONB Management Plan 2014-2019 and the Gravesham Landscape Character Assessment 2009.*
  3. *The development has resulted in the direct loss of part of the Ancient Woodland of Fowlers Stone Wood, which is an irreplaceable habitat. There are no wholly exceptional reasons for the development in this location and net gains for biodiversity cannot be achieved. The development is therefore contrary to the requirements of paragraphs 170 and 175 of the National Planning Policy Framework 2019 and Policy CS12 of the Gravesham Local Plan Core Strategy 2014.*
  4. *In the absence of arboricultural and ecological surveys, the impact of the development on the protected trees and biodiversity on and around the application site has failed to be adequately demonstrated, contrary to the requirements of paragraphs 170 and 175 of the National Planning Policy Framework 2019 and Policy CS12 of the Gravesham Local Plan Core Strategy 2014.*
  5. *The vehicular access for the site fails to provide adequate visibility to and from this Highways Network Local Distributor Road and is therefore considered dangerous and unacceptable in highways safety terms. The development is therefore contrary to the requirements of paragraph 109 of the National Planning Policy Framework 2019, Policy CS11 of the Gravesham Local Plan Core Strategy 2014 and Saved Policy T1 of the Gravesham Local Plan First Review 1994.*
- 1.05 Our letter of objection will be focused around these reasons for refusal which will each be considered in turn. Before we outline our objections, we note that the application is also retrospective and that Government guidance, published in 2020, makes it clear that Local Authorities, in determining applications, can now afford weight against an application which is retrospective in nature. Particularly in the case of Gypsy / Traveller sites. We also understand the site and applicant is also subject to a High Court injunction, and has been both in, and continues to, breach the requirements of that order. This should also be a material planning consideration.
- 1.06 Earlier Google Streetview images show that the site did not previously have an entrance, and that one was created within the last 4 years. We acknowledge the entrance has been included in this planning application.

## **Metropolitan Green Belt**

2.01 The National Planning Policy Framework (NPPF) sets out the Government's direction for determining planning applications. Whilst there is a key focus on sustainable forms of development, Section 13 of the 2019 revision sets out the purpose of Green Belt;

*134. Green Belt serves five purposes:*

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

2.02 Paragraph 145 of the NPPF sets out the exceptions to the general restriction of new development in the Green Belt. Whilst some exceptions include the conversion of existing buildings, the partial redevelopment of Brownfield land, and limited infilling, the change of use to a site for Gypsy/Traveller use is not listed as an exception.

2.03 Any development within the Green Belt which is not included in the exceptions listed in Para 145 must demonstrate 'Very Special Circumstances'

2.04 Guidance is then taken from the PPTS, which outlines in Section E the approach generally to be taken to Traveller sites in the Green Belt. Paragraph 16 states;

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

2.05 In assessing the application, the only conclusion that can be arrived at is that the site is inappropriate by definition, as it does not fall into one of the exceptions above. The application provides for a new site in the Green Belt and the proposal is therefore contrary to Local and National Planning Policy in this fundamental regard. Consideration must therefore be had, as to whether the circumstances of the applicant constitute very special circumstances.

### **Personal Circumstances and whether those amount to 'Very Special Circumstances' (VSC)**

3.01 We note that no additional information has been provided in relation to the personal circumstances of the applicant as part of this appeal. We therefore consider that there remains to be insufficient justification as to why this particular site is the most appropriate location for the development. As with the original application, the applicant has advanced that the main reason for them choosing the site (and wanting to remain there) is because of their Children's education. Whilst the personal details have been rightfully redacted from their personal statement, it is noted that the children attend West Malling Primary School. No supporting information has been submitted on behalf of the school, which we would expect to not only confirm their Gypsy/Roma status, but also provide a commentary on their attendance as well. It is unclear how long they have been enrolled at the school for, and what settled address they used to obtain their children's places in the first place. We

consider this information is vital in the assessment of the application to ascertain the extent of the applicants 'Very Special Circumstances.'

- 3.02 We wholeheartedly agree that their children have the right to a settled base and importantly, health and education. However, the site is not located within close proximity to the primary school which the children attend. Should the primary school have been within walking distance of the site, this would have provided some weight to their VSC case. From a search on google maps it is noted however, that during morning drop off time the average car journey would be around 30 minutes depending on the route and traffic. This is a significant distance to travel, particularly to a primary school. It is unclear therefore why this particular site has been identified as the only suitable location to meet the needs of the children in maintaining access to their primary school. Using this as the basis for the distance required to the primary school, it is considered that there would be a fairly wide area of search.
- 3.03 The catchment area for West Malling is sizeable and it is considered that other, less sensitive areas, should have been explored first, before development commenced on site. The Parish Council also believes that the site is outside of the catchment area of the school the children currently attend. Ideally, no works should have occurred at all on a site as sensitive as this. There is no evidence of site searching in Tonbridge and Malling, or Maidstone Borough areas for example, both of which would remain close to the West Malling centre they are looking for. In addition, there are areas of these boroughs which are not located within the Metropolitan Green Belt. We believe potential sites within these areas should be considered above this proposal, particularly if they are closer to the children's primary school.
- 3.04 What is not clear is whether or not, subject to the best interests of the children, this outweighs the clearly identifiable harm to the openness of the Green Belt. The applicants accept they have not applied to go onto a waiting list for sites. Whilst they have said that they saw no point as plot turnover is low, there is no evidence of attempts to try and find alternative sites in the wider area. It should be noted however that their search area would include a number of other LPAs in addition to Gravesham, including Maidstone and Tonbridge and Malling. By enrolling on the waiting lists for these authorities, this would increase their opportunities for finding a suitable site. Whilst we understand that the waiting lists can be long, this is not a reason to not enrol on one. The process of enrolling onto a list is a fairly simple one and there is no commitment by the applicant to accept a site. We consider the reasoning for not opting to enrol on a waiting list is insufficient.
- 3.05 It would appear that the main focus on the applicant's very special circumstances is based on the fact that the children need access to their primary school. However, as we have set out above, we dispute this on the basis that the site is not in fact in what would be considered close proximity to the primary school. It does not appear that the family have any historical family links that would tie the applicant to the area.
- 3.06 Whilst we empathise with the applicant's needs to find a settled base, it is not considered that this is a suitable location, further demonstrated by the amount of enabling work required to facilitate the use. It is accepted by all parties, that the proposal comprises inappropriate development within the Green Belt and therefore the scheme relies upon the very special circumstances case. As we have highlighted we consider the evidence put forward is insufficient and on its own would not outweigh the significant harm caused by the proposal. As a result, we believe that the appeal should be dismissed on this reason alone.

## **Landscape Impact**

- 4.01 The AONB is a statutory landscape protection. It is afforded to areas of special landscape protection and developments of any kind (Notwithstanding the fundamental Green Belt issues identified above) must respect their natural environment. Whilst the site is not located within the AONB itself, the boundary does lie on the opposite side of Harvel Road, in close proximity to the site. As such we consider the site falls within the setting of the AONB, which we consider should be provided protection in its own right. This certainly adds additional sensitivity to the site on top of its Green Belt designation.
- 4.02 The site lies within the Vigo Scarptop Woodlands character area, identified in the Landscape character assessment (2009) as affording large areas of uninterrupted dense native coppice woodland. The development results in a clear intrusion into this woodland, without special justification for it. A large area of the woodland has been removed as part of this retrospective development, and additionally parts of the woodland have been disturbed. This use is out of character with the woodland. We believe the development is therefore contrary to the aims and objectives of this document.
- 4.03 The development concerned does not represent infilling, nor is it a result of redevelopment of previously-developed land. Whilst much of the work is now retrospective, the planning assessment must be taken from the starting point of previously uninhabited woodland, where no development of any kind was originally in situ.
- 4.04 Whilst there is a level of screening present along the frontage, we believe that the proposal would have a detrimental impact on the wider rural landscape. Whilst there would not be any long-range views of the development, it is nonetheless an alien intrusion into the local landscape which is currently devoid of development of this type.
- 4.05 We have considered the impact on the setting of the AONB in earlier paragraphs, but we consider on balance, that the proposal results in an urbanising effect on what is generally, unspoilt woodland.

## **Ancient Woodland / Tree preservation Orders**

- 5.01 The appeal statement disputes the classification of the site as Ancient Woodland, based on the information set out on the Magic mapping system. We consider that the part of the land that forms the application has Ancient Woodland status, as registered by Natural England. As a result, the area of Woodland is still likely to be sensitive to change and in our view should still be protected and enhanced. It is important to note that the Woodland floor itself should be protected as this is a vital method of carbon capture and should not be disturbed. The soil itself will support a range of flora and fauna and this should be protected.
- 5.02 The application was submitted without a Tree survey, Arboricultural Method statement, or Tree Protection Plan. In our view we consider the application should not have been validated without such technical information. No additional information has been submitted at this stage and it is understood that this will be provided as part of the enquiry. We consider this technical information should be submitted at the earliest opportunity so that the reports can be reviewed by all parties to allow for additional comment. We also consider it is important to assess the loss of those trees already removed and the impact of the scheme on the surrounding trees.

- 5.03 We have reviewed the letter from the Forestry Commission. Whilst they are not able to comment on the Tree Preservation Orders, it is not clear (Given the date of their site visit was 2<sup>nd</sup> July 2020) whether all of the trees had been removed at the time of their visit. There is note that some of the Ash Trees had been affected by 'Chalara', without a tree survey it is unclear indeed how many trees were felled that were Ash, and how many others were other species.
- 5.04 We wish to await the submission of further information before providing final comments on the appellants evidence in relation to this aspect of the appeal.

### **Biodiversity and Ecology**

- 6.01 Within paragraph 8.46 of the appellants statement it state that '*with regards to the ecological value of the woodland, and whether or not net gains for biodiversity can be achieved, we will be providing expert evidence from an Ecology Consultant that will demonstrate enhancement is possible and that the residential use of the land will not result in any detrimental harm to valued and protected habitats.*' We consider that this evidence should be provided as part of the appeal submissions and prior to the public enquiry. This is so that consultees and members of the public have the opportunity to assess the evidence and provide commentary.
- 6.02 In fact, we consider that a biodiversity survey and report should have been submitted as part of the planning application in accordance with the Councils validation requirements which requires surveys to be submitted for '*major development and other development likely to have a biodiversity impact on statutory and non-statutory designated sites of importance for nature conservation, protected species, natural or semi-natural vegetation/habitat such as trees and scrub, woodland, hedgerow, ponds and water courses.*' The site meets this criteria and as such we consider that a survey should have been required as part of the application submission. It is therefore even more pressing that a survey should be submitted as part of the planning appeal, this is regardless of whether the works are retrospective or not.
- 6.03 Given that the site includes a significant area of Ancient Woodland, and the nature of the site itself, we believe that there will be ecological sensitivities in terms of protected species and habitats. Vigo and Meopham Parish Councils have furnished us with research taken from the Kent and Medway Biological records centre (Please see attached). Whilst dated from 2014, the report clearly states that there is a plethora of wild and protected species in the local woodland. These should have been taken into consideration prior to the development commencing and whilst there are separate civil mechanisms to deal with any criminal activity, the impact on biodiversity (And any suggested mitigation) is a material planning consideration which weighs against the planning balance to be had in this case.
- 6.04 Para 170 (d) of the NPPF states that '*planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*' Given the nature of the site we consider it is unlikely that net gains will be able to be achieved on site. We also consider that it is important for the baseline assessment of the site to reflect the previous status of the land, i.e. prior to the change of use and not a current assessment of the site. This will be necessary to establish what net gains are required to combat the retrospective impact of this development. It is not clear how this assessment will be made since the development is retrospective. A further reason why we consider that it is important for this information to be shared as part of the appeal as soon as possible.



6.05 In light of the above, we believe the appeal should be dismissed by virtue of a lack of Preliminary Ecological Scoping Report or further surveys if identified and required. We wish to await the submission of further information before providing final comments on the appellants evidence in relation to this aspect of the appeal.

### **Impact on Highway Amenity**

7.01 We have read Kent Highways comments regarding the provision of the access. Whilst they harbour no objection subject to the imposition of conditions, we are doubtful that these can be achieved.

7.02 In order to provide a gateway at least 6 metres back from the edge of the highway, the visibility splays required (203m in each direction) do not look possible to achieve without additional cutting back of the verge. There is also a fundamental issue that these splays are likely to cross over land not in control of the applicant and therefore we find it unlikely that such splays could be retained.

7.03 The narrow width of the site means that in our opinion, the applicant would not be able to meet the requirements of KCC Highways comments dated 25<sup>th</sup> March 2021 and should again be refused on potential highway safety impact.

### **Other aspects**

8.01 It should be brought to your attention that there are also anomalies in the application. For example, the application form states that works commenced on 1<sup>st</sup> September 2020; however, it is a fact that this started as far back as April 2020.

8.02 There is also the assertion that there is no need for a new access. However, Google streetview suggests the access is more recent and is not an historical one. It is required for the use which is now proposed, and it should be assessed on this basis. The new access is also stated as being required on the application form, so in our view the proposed development must include this. Section 10 of the form asks whether there are trees on the site, and whether there are trees in the vicinity that could influence local character. This appears to have been marked 'no' to avoid the need for a tree survey. A site visit will show that this is not the case and in fact a full survey should have been required from the outset.

8.03 Section 12 concerns Biodiversity and Ecology. Again, it is surprising that given the site is designated Ancient Woodland, no survey has been advanced. Clearly a Preliminary Scoping report is the absolute minimum that should be submitted in this case. It is false to have marked 'no' to all three sections of Part 12 on the form. Section 20 relates to the carrying out of industrial or commercial activities to which they applicant has responded 'no'. However, by their own admission in their supporting statement it is stated that they already operate a commercial business from the site (that they are not seeking permission for) but will no doubt continue if unrestricted.

8.04 The LPA's Core Strategy sets out the most recent level of identified need. Para 5.13.6 of the Core Strategy sets out a need of 16 pitches over the Local Plan Period from 2013-2028. The Planning statement has not considered whether a need remains in the Borough. The Core Strategy sets out, in line with the Planning Policy for Traveller Sites note, that *"new sites are inappropriate in the Green Belt and will be restricted in other protected areas (see Policy CS01 on Sustainable Development and paragraph 4.1.3 of its supporting text). Where unmet need is being addressed, proposals that do not accord with planning policies can be refused."*

- 8.05 There is no Local Plan support for new sites in the Green Belt. Policy CS17 makes this clear, that in the first instance, demand will be met through the extension of existing sites, and where possible, new sites in the urban areas and rural settlements inset from the Green Belt.
- 8.06 The NPPF and PPTS also makes clear that unmet need is unlikely to outweigh harm to the openness of the Green Belt and by reason of inappropriateness.

## Conclusion

- 9.01 As set out above, in relation to ecology and trees, we will await the submission of additional technical information before providing our full comments on the appellants evidence base. Without the submission of this additional information it is not possible to comment on these material considerations. We reserve the right to provide a further objection in due course, and expect there to be an opportunity to do so.
- 9.02 The application site is an extremely sensitive one; The siting in the Metropolitan Green Belt is contrary to both Local and National Policy. Notwithstanding the harm identified above in aspects such as visual impact, AONB, Ancient Woodland, Biodiversity and Highways, the fundamental issue is that it is considered that insufficient very special circumstances have been demonstrated to override the inappropriateness of the Development as a matter of principle.
- 9.03 Whilst there is sympathy for the applicant wanting their own home, these needs must be weighed against strong National Policy that directs this type of development away from Green Belt Areas and AONB's. The Planning Policy for Traveller Sites document accepts that such sites are often found in rural locations, but that care must be taken as to how sites are selected.
- 9.04 The land was not previously-developed land when the applicant purchased it. A significant amount of work has been undertaken to facilitate the use, and in our view this has been at the cost of not only a large section of Ancient Woodland, but a plethora of natural habitat and biodiversity.
- 9.05 There is a responsibility placed on applicants to take care when planning for such developments. Applications that are retrospective in nature can now be afforded material weight in the balancing exercise. In this case, given the extent of works already completed, this should weigh heavily against the application. It is also a material consideration that a High Court injunction is in force, and that occupation of the site still remains while this is already in place.
- 9.06 It is our view, and that of Vigo and Meopham Parish Councils, the planning appeal should be dismissed.

*Yours Sincerely*



*Simon McKay BSc MA MRTPI*  
Director, SJM Planning Ltd

Enc – Kent Red Data Book Species Survey

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