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12 April 2021

Dear Mr Amekor,

Re Objection to planning application 20201049 – 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

- 1.01 We write to lodge an objection to the above application 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 application 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 supporting statement, as well as the plans which have been submitted as part of the planning application.
- 1.04 We understand the site lies within the following planning and landscape constraints;
- Metropolitan Green Belt (MGB)
 - Area of Outstanding Natural Beauty (AONB)
 - Ancient Woodland
 - Land subject to Tree Preservation Orders (TPO's)
- 1.05 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.
- 1.06 We 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.
- 1.07 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.

- 1.08 Having assessed the application, we wish to outline our concerns with a number of aspects, and these are addressed below;

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.

Kent Downs Area of Outstanding Natural Beauty

- 3.01 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.

- 3.02 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.

- 3.03 Whilst some of the development can be screened from the road, the AONB is protected for its own sake; meaning the development's harm on the AONB must be assessed in the same way whether or not it is screened from the public domain. In our client's view, the development is intrinsically harmful to the special character of the AONB, without special justification. The winding track is testament to the needs of the client to screen themselves from view from the more public parts of the site.
- 3.04 The site is considered to lie within the Vigo Scarptop Woodlands character area, identified in the Landscape character assessment (2009) as affording large areas of uninterrupted dense native coppice woodland. (Page 47)
- 3.05 The development results in a clear intrusion into this woodland, without special justification for it. We believe the development is therefore contrary to the aims and objectives of this document.

Ancient Woodland / Tree preservation Orders

- 4.01 The development has been sited within an area of Ancient Woodland, subject to an area Tree Preservation Order. The application has been submitted without a Tree survey, Arboricultural Method statement, or Tree Protection Plan. It appears sadly that substantial damage has already been done.
- 4.02 Obviously it is for the LPA to determine the level of harm, but we would suggest that irreversible harm has been done to this section of woodland by virtue of the formation and laying out of hardstanding and driveway areas, as well as the siting of structures, building materials and associated paraphernalia.
- 4.03 The application should therefore be refused for the lack of an appropriate survey and suggested mitigation, if that is at all possible in this case.
- 4.04 Whilst the breaching of a TPO is a criminal, not a planning policy consideration, it should nonetheless raise questions over the validity of the application in the absence of such a report.
- 4.05 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 2nd 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.

Biodiversity and Ecology

- 5.01 Protected Species will no doubt be present in this area of Ancient Woodland. No Preliminary Ecological Appraisal has been prepared or submitted and we are again surprised the application has been validated without one.
- 5.02 However, while the application remains 'live' it would be pertinent to ask for such a survey to be commissioned given the environmental sensitivity of the application site, regardless of whether the works are retrospective or not.

- 5.03 Vigo and Meopham Parish Councils have furnished us with research taken from the Kent and Medway Biological records centre. Whilst dated from 2014, the report clearly states that there is a plethora of wild and protected species in the 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.
- 5.04 In light of the above, we believe the application should be refused by virtue of a lack of Preliminary Ecological Scoping Report or further surveys if identified and required.

Wider landscape impact

- 6.01 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.
- 6.02 We have considered the impact on the AONB in earlier paragraphs, but we consider on balance, that the proposal results in an urbanising effect on what is generally, unspoilt woodland.

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 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 25th March 2021 and should again be refused on potential highway safety impact.

Potential land contamination

- 8.01 The applicant suggests in their supporting statement that they also operate in a number of construction trades from the property, although they are not seeking planning permission to continue this practice. Given its setting in ancient woodland and a biodiversity species-rich environment, we do not see how such a use could be carried on from the site without significant impact on local ecology and the natural environment.
- 8.02 It is not an appropriate setting for such a commercial use to take place from. There may have already been a significant amount of leaching of contaminants into the soil, making its way through infiltration to groundwater zones. We also are not aware of how chemical toilet waste or washing water is also to be dealt with on the site.
- 8.03 Further clarification, or an initial contaminated land report, should ideally be requested from the applicant to quantify any impact that has already occurred.

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

- 9.01 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. However, 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.
- 9.02 We wholeheartedly agree that their children have the right to a settled base and importantly, health and education. 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.
- 9.03 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.
- 9.04 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. Significant harm has been identified in a number of aspects above, which when combined, provide an overriding reason to refuse the application in our view.

Other aspects

- 10.01 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 1st September 2020; however, it is a fact that this started as far back as April 2020.
- 10.02 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.
- 10.03 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 the 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.
- 10.04 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.*"
- 10.05 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.
- 10.06 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

- 11.01 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 not considered that very special circumstances have been demonstrated to override the inappropriateness of the Development as a matter of principle.
- 11.02 Whilst there is sympathy for the applicant wanting their own home, these needs must be weighted 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.

- 11.03 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.
- 11.04 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.
- 11.05 It is our view, and that of Vigo and Meopham Parish Councils, that planning permission should be refused for the development.
- 11.06 Should the application be refused, our clients would expect the LPA to ensure that the land is restored to its former condition, with appropriate ongoing management procedures put into place by means of a legal agreement.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Simon McKay', written in a cursive style.

Simon McKay BSc MA MRTPI
Director, SJM Planning Ltd