

Application Number	16/01493/AS	
Location	The Willows, Pluckley Road, Bethersden, Ashford, Kent, TN26 3ET	
Grid Reference	E 591943 N 141573	
Parish Council	Bethersden	
Ward	Weald Central	
Application Description	Variation of condition 2 on planning approval 04/00551/AS to allow the stationing of 5 gypsy caravans, of which up to 4 can be static caravans/mobile homes and for the storage of one touring caravan not for residential accommodation.	
Applicant	Mr W Collins	
Agent	Philip Brown Associates	
Site Area	0.22Ha	
(a) 18 / 6R	(b) Parish Council	(c) ES X, CPRE X, R

Introduction

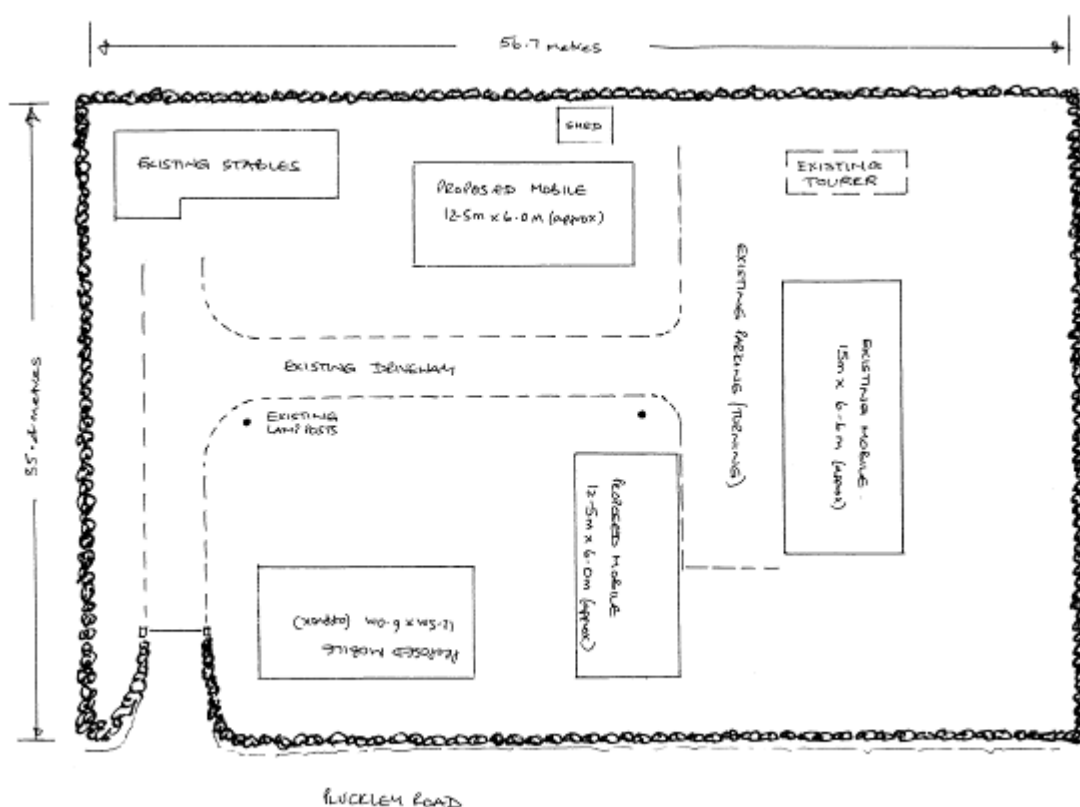
1. This application is reported to the Planning Committee at the request of the Ward Member, Councillor Pickering.

Site and Surroundings

2. The application site is located approximately 750m to the east of Bethersden off Pluckley Road.
3. The site is an established gypsy traveller site and consists of two mobile homes, two touring caravans and one stable block. The site has planning permission as a gypsy caravan site with a restriction to a single mobile home touring caravan. The second caravan was brought onto the site at the end of last year and is therefore a breach of planning control.

Proposal

- The application seeks a variation of condition 02 of planning permission 04/00551/AS to allow the stationing of 5 caravans, of which up to 4 can be static caravans or mobile homes. There would therefore be a net increase in static caravans of 3 compared with the current situation



- Extract from site layout plan
- The planning permission was granted on appeal for the change of use of the land to a residential gypsy caravan site and the provision of hardstanding and a driveway. Condition 02 reads as follows:

"No more than one static caravan and one touring caravan shall be stationed on the site at any one time. The touring caravan shall not be used as residential accommodation independent of the residential use of the static caravan",

- In support of the application, the following has been submitted:

Planning statement – statement covering the history behind the site, justification behind the proposal and the policy considerations:

- Applicant wishes to increase the number of static caravans from 1 to 4 in order to accommodate household growth within the Collins family. The proposed extra caravans will allow the Collins children to become independent, but without having to find sites of their own.
- Proposed wording of new condition: - *'no more than 5 caravans shall be stationed on the land at any one time, of which not more than 4 shall be static caravans/mobile homes. One touring caravan shall only be stored on the site, and shall not be used as a separate unit of residential accommodation.'*
- Application site not within any landscape designation or restriction in NPPF terms
- GTANA for Ashford identifies provision and need for gypsy traveller sites and application site would contribute to this
- Council have not permitted or allocated sufficient sites
- Currently local policy vacuum as existing policies don't address shortfall and emerging plan has not been adopted
- Application seeks more efficient use of the site and is well screened

Planning History

96/00165/AS – renewal of planning permission for stationing of a caravan – permit temporary 3/4/96

98/00319/AS – renewal of residential caravan and timber framed store shed – permit 01/05/1998

03/01380/AS – gypsy caravan – refuse 22/01/2004

04/00551/AS – gypsy caravan (resubmission) – refuse 17/05/2004. Approved on appeal August 2005. This permission allowed the use of the land as a residential gypsy caravan site together with the provision of hardstanding and a driveway restricted to a single mobile home and associated touring caravan.

05/01811/AS – erection of a stable block and change of use of land for the keeping of horses – permitted 20/02/2006

Consultations

Ward Members: The Ward Member is not a member of the Planning Committee

Bethersden Parish Council – object on the following grounds:

- Application contravenes the Planning Inspectors advice regarding the use of the site for the traveller community
- Request more time to consider the issues
- There are no reasons as to why a more intensive use of this small rural site should be permitted

CPRE – object on the following grounds:

- Large increase in density of development on this small rural site
- Development of this density would not be permitted in open countryside, especially as the caravans are static
- Unless it can be proved that they intend to travel as part of their way of life then this application should be refused

ABC Environmental Services – no objection

Weald of Kent Protection Society – object on the following grounds:

- If the children are in their late teens and early 20's they don't need their own mobile home and if they are independent would need to prove that they themselves
- The site would become more visible given the proposed placing of the mobile homes

Neighbours: 18 neighbours notified; 6 letters of objection raising following issues:

- Over development
- Located in a special landscape area
- Out of keeping with the locality
- Highway safety on Pluckley Road
- Effects on tourism
- Noise pollution for local residents and wildlife

- Incompatible with Bethersden Neighbourhood Plan to protect the rural countryside, preserve rural setting, habitat and environment of the parish

(Officer comment: Bethersden Neighbourhood Plan is in the early stages and therefore has little weight in the decision making process).
- Questions gypsy traveller status of residents – Inspector previously concluded Mr Collins was not a gypsy.
- No presumption in favour of gypsy status
- Sanitation and waste disposal issues
- Would not be enough room for turning and parking facilities
- Existing planning breaches on site
- Light pollution
- Inadequate boundary screening

Planning Policy

8. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 and the Wye Neighbourhood Plan 2015-30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016. At present the policies in this emerging plan can be accorded little or no weight.
9. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

- | | |
|------|--|
| GP12 | Protecting the Countryside and Managing Change |
| HG13 | Gypsy Sites |

Local Development Framework Core Strategy 2008

- | | |
|-----|---------------------------|
| CS1 | Guiding Principles |
| CS2 | The Borough Wide Strategy |

CS9	Design Quality
CS15	Transport
CS14	Gypsies and Travellers
CS20	Sustainable Drainage

Tenterden & Rural Sites DPD 2010

TRS17	Landscape Character and Design
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Local Plan to 2030

SP1	Strategic Objectives
SP2	The Strategic Approach to Housing Delivery
SP6	Promoting High Quality Design
HOU16	Traveller Accommodation
HOU17	Safeguarding Traveller Sites
ENV9	Sustainable Drainage

10. The following are also material to the determination of this application:-

Supplementary Planning Guidance/Documents

Landscape Character Assessment SPD 2011

Residential Space and Layout SPD 2011 (now external space only)

Residential Parking and Design SPD 2010

Sustainable Drainage SPD 2010

Public Green Spaces and Water Environment SPD 2012

Dark Skies SPD 2014

Government Advice

National Planning Policy Framework (NPPF) 2012

11. 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. The following sections of the NPPF are relevant to this application:-
12. Paragraph 14 sets out presumption in favour of sustainable development.
13. Paragraph 17 sets out the core planning principles including every effort should be made objectively to identify and then meet the housing needs of the area; and always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; encourage the effective use of land by reusing land that has been previously developed (brownfield), provided that it is not of high environmental value; contribute to conserving and enhancing the natural environment, conserve heritage assets.
14. Section 6 sets out about delivering a wide choice of high quality homes, including plan for the needs of different groups in the community.
15. Section 7 sets out requiring good design.

Planning policy for traveller sites 2015

16. This is an updated version of planning policy for traveller sites, which includes policies contained within the government response to the 'planning and travellers' consultation.
17. This follows the planning and travellers: proposed changes to planning policy and guidance consultation document.
18. The new Planning Policy for traveller Sites should be read in conjunction with the National Planning Policy Framework.

Assessment

19. The main issues for consideration are:
 - The Principle of the Proposed Development
 - Gypsy status of the applicants

- Need for and provision of gypsy sites
- Sustainability
- The impact of the development visual amenity/impact on ancient woodland and TPO trees
- The impact of the development upon residential amenity
- Highway Safety
- Personal circumstances of the applicant and alternatives
- Other material considerations

Principle of development

20. Central Government advice contained within the NPPF provides concise government guidance with the presumption in favour of sustainable development to be seen as “a golden thread running through decision-taking”. The Framework identifies that there are 3 dimensions to sustainable development – an economic role, a social role and an environmental role which should not be undertaken in isolation. The NPPF also states that Local Planning Authorities should recognise the intrinsic character and beauty of the countryside and that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. This is endorsed by Development Plan Policy.
21. Gypsy sites are not excluded from the countryside as a matter of principle however the PPTS requires these to be strictly controlled and any harm fully assessed. The PPTS lists the following issues amongst other relevant matters to be considered during the assessment of planning applications for gypsy sites:
 - a) The existing level of provision and need for sites;
 - b) The availability of alternative accommodation for the applicants;
 - c) Other personal circumstances of the applicant;
 - d) That the local specific criteria used to guide the allocation of site in plans or which form the policy where there is not identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and

- e) That they should determine applications for sites from any gypsy and not just those with local connections.
- 22. Any new development for such sites in rural areas should respect the scale of and not dominate the nearest settled community and avoid placing undue pressure on local infrastructure.
- 23. The PPTS notes that weight should be attached to, inter alia, effective use of previously development (brownfield) land.
- 24. These issues will be considered in subsequent sections of this report, however, gypsy sites in rural areas are not unacceptable as a matter of principle.

Gypsy Status

- 25. The first step in the assessment of an application for a gypsy traveller development is ensuring that the Applicant and or future occupiers of the proposal fall within the latest definition of gypsy traveller. The 2015 'Planning Policy for Traveller Sites' (PPTS) replaced the 2012 PPTS, at the same time redefining the definition of who qualifies as a 'traveller'. Under the new definition travellers who have ceased to travel are now excluded. The new definition defines travellers as: *"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such"*.
- 26. The Applicant wishes to increase the number of static caravans from 1 to 4 in order to accommodate household growth within the Collins family. In particular, it is explained in the submission that The Collins family have 2 children who are of marrying age and the additional static units would allow their children to become more independent but without the need to find a new site. An objection was received questioning the gypsy traveller status of the Applicant and his family. The Applicants gypsy traveller status was scrutinised in depth by the Inspector in the appeal decision following the local refusal of application 04/00551/AS. In summary the Inspector stated that: *"the proposal is for the use of land as a gypsy caravan site and I consider it reasonable to look at the family group as a whole. I conclude the occupation of the site by the family would comply with the intent of Policy HG13 (of the ABC Local Plan)." It was noted in the appeal decision that the Applicant had 3 children and so the information within the planning statement of this current submission appears consistent with the previous assessment of the family's gypsy traveller status. I do not therefore consider it necessary to assess this again.*

27. Given this and in the absence of evidence to the contrary, I am satisfied that the applicants satisfy the definition of a gypsy in the PPTS.

Need for and provision of gypsy sites

28. The need to plan for the housing requirements of the gypsy and traveller population is in line with Government guidance contained in the National Planning Policy Framework (NPPF) and its companion document PPTS. These documents ensure that everyone, including members of the travelling community has the opportunity of living in a decent home.
29. A Gypsy and Traveller Accommodation Assessment was carried out in 2013, which identified a need for 17 additional pitches between 2012-2017; and a need for 57 pitches between 2012-2028. This need is currently being met through windfall sites such as this whilst the 5-year supply is being provided through the local plan to 2030.
30. Turning to supply, as previously stated, land allocations for gypsy sites are to be made through the new Local Plan to 2030, which is anticipated to be adopted in 2017.
31. Whilst there is an unmet need for gypsy sites in the Borough, the Council is taking a proactive approach in the interim period, around 30 permanent pitches and 7 temporary pitches have been granted planning permission within the last 5 years, which is encouraging. However, it is likely to be in the region of 2-3 years before allocated and deliverable sites will be available. Consequently, it is unlikely that the identified shortfall in pitches to 2017 would be met and other requirements may come forward in the five year period. The PPTS requirement to have a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against a locally set target has therefore not been met.
32. It is accepted that there is an on-going need to identify sites to achieve a 5-year supply which the new local plan will do. Based upon the GTAA there is an ongoing need for G&T sites which until sites are allocated in the emerging local plan, can only be met through the grant of planning permission on appropriate windfall sites as and when they come forward.
33. The 'windfall' policy HOU16 of the emerging Local Plan sets out a threshold to provide for additional small sites in the borough. This approach is consistent with that which is set out in the PPTS (Paragraph 10d), which states that in producing Local Plans, Local planning authorities should "*relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density*".

34. Local evidence, identified from the bi-annual gypsy count suggests that Travellers in Ashford tend to reside on small sites which accommodate their immediate and extended family. Coupled with the lack of available land identified in the GTAA and the long-standing issues managing larger sites, a number of smaller sites spread throughout the district would be a more effective means of providing sustainable and flexible accommodation to meet the need. One particularly relevant criteria of policy HOU16 includes ensuring that the site would not accommodate more than 5 pitches or make an existing site exceed 5 pitches in size. These guidelines are not exceeded with the proposed development and whilst representations have been received regarding the intensity of the use I consider that the site is large enough to accommodate the proposed maximum of 5 pitches.
35. Whilst the emerging Local Plan holds minimal material weight until adopted the evidence base is up to date and relevant to the determination of gypsy traveller proposal, such as this proposed development. The proposed development conforms, in its entirety, to the principles set out within the emerging Local Plan. Furthermore, the NPPF is of material weight and paragraph 159 states that local planning authorities should have a clear understanding of housing needs in their area and should prepare a Strategic Housing Market Assessment (SHMA) which addresses the need for “all types of housing”. This includes gypsy traveller sites and the emerging Local Plan evidence base has undertaken a SHMA to address this specific issue.
36. The principle of this application is therefore acceptable as it is consistent with the aims and aspirations of the NPPF and the evidence base which has informed the draft production of the emerging Local Plan.

Sustainability

37. Paragraph 11 of the planning policy guidance for gypsy and traveller sites states that Local Planning Authorities should ensure that traveller sites are sustainable economically, socially and environmentally. This includes the following criteria:
- Promote peaceful and integrated co-existence between the site and local community
 - Promote, in collaboration with commissioners of health services, access to appropriate health services
 - Ensure children can attend school on a regular basis

- Provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
 - Avoid placing undue pressure on local infrastructure and services
 - Not located in areas of high risk of flooding
38. There has been no change in terms of the sustainability of the site economically, socially or environmentally. A settled base affords access to health services and schools for the applicant's children as their families grow. Given that the use of the site already has permission and that the development involves an increase in the number of static caravans and not an extension of the land, then I consider the development to represent sustainable development.

Visual Amenity

39. The NPPF attaches great importance to the design of the built environment and states that developments should respond to local character and history and reflect the identity of local surroundings and materials while not preventing or discouraging appropriate innovation. It also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Representations have been received regarding the impact of the proposal on the Special Landscape Area (SLA) and rural setting. Whilst there is no particular landscape designation Ashford Landscape Character Assessment 2009 describes the Bethersden mixed farmlands landscape as being moderate in sensitivity but with low visibility. In particular it describes a well treed and undulating landscape. The application site is no different and is enclosed with heavy natural screening on all sides. Existing and proposed units would only be visible when actually entering the site through a large wooden entrance gate. The development is proposed on the existing hardsurfaced area of the site and results in no encroachment into rural land. As such it is anticipated that there would be a negligible impact upon the visual amenity and character and appearance of the area.

Residential Amenity

40. One of the core principles of the NPPF is to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The closest residential property is "The Lodge" immediately to the south. The site is an established gypsy site. Given this as the family already reside on the site, the development will not result in any significant harm to

the living conditions of those occupiers through noise and disturbance, overlooking nor will the development appear overbearing.

Highway Safety and Parking

41. The proposed development would use the existing access and there is sufficient off street parking in the form of an existing hardstanding to meet the parking standards. Whilst there may be intensification in the use of the access it is considered that this would be negligible. There would therefore be no harm to highway safety.

Personal circumstances of the applicant and alternatives

42. The driver behind the need for the additional caravans is to meet the needs of the growing family allowing the children to live more independently from their parents but to remain as a family unit. As this is an important ingredient of the application then consider that in the event permission is granted that a condition is imposed to restrict the occupation to that of the Collins family and their immediate family. There are no available pitches on the Council's own site and this would not meet the requirements of the applicant.

Other Issues

43. Objections have been received regarding tree removal and the related noise pollution. There are already restrictions from the previous permission regarding any commercial use of the site. As this is a variation of condition to this application these restrictions would remain in place and will be transferred over to any permission. Furthermore there is additional legislation outside of planning which would investigate any future noise complaints.

Human Rights Issues

44. I have also taken into account the human rights issues relevant to this application. In my view, the "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

45. In accordance with paragraphs 186 and 187 of the NPPF, Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a

positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

46. The main issues in this case are:-
- (a) The proposed development would contribute towards meeting the general need for gypsy sites in the Borough and as planning provision is still to be resolved, significant weight must be given in the decision making process to this;
 - (b) Although not within the village the site is an existing gypsy caravan site and is considered to be sustainable;
 - (c) The proposed introduction of an additional 3 static caravans does not introduced any materially visually harmful development and the site is well screened and therefore would not cause harm to visual amenity;
 - (d) The development would not have an adverse impact upon the residential amenity of the closest neighbours;
 - (e) There is sufficient space for parking and turning facilities and there would be no harm to highway safety.
47. The development would go some way to meeting the identified need for further gypsy sites. The Council currently has a lack of suitable alternative sites in the short to medium term. Whilst the site is in the countryside, it is an existing site and I do not consider it to be unsustainable for additional caravans to be positioned on the land. Weight should also be given to the fact that the proposal would be entirely contained on previously developed land.
48. The proposal complies with existing and emerging local plan policies and the guidance contained within the NPPF and planning policy for traveler sites 2015. As per paragraph 14 of the NPPF, a decision other than in accordance with the local plan is therefore recommended in this case.
49. Whilst I note the concerns raised by the objectors and the parish council, given the lack of harm identified combined with the ongoing identified need for gypsy and traveller sites in the Borough and at present the lack of a 5 year supply of deliverable/available sites, together with the proposal representing sustainable development, I recommend that planning permission is granted.

Recommendation

Permit subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

Reason: As the site lies in an area where an unrestricted caravan site would not normally be permitted.

3. The additional static caravans hereby permitted shall only be occupied by Mr Bill Collins, their 3 children and any dependants. When their occupation ceases then the site shall revert back to the stationing of a single static caravan and one touring caravan as approved on appeal 04/00551/AS.

Reason: In accordance with the terms of the application and in the interests of visual amenity.

4. No more than 4 static caravans and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time. The touring caravan shall not be used as residential accommodation independent of the residential use of the static caravans.

Reason: In accordance with the terms of the application and in the interests of visual amenity.

5. No commercial activities shall take place on the land apart from the grazing of horses and ponies.

Reason: In accordance with the terms of the application and in the interests of visual amenity.

6. No vehicle over 3.5 tonnes unladen weight shall be stationed, parked or stored on the site.

Reason: In accordance with the terms of the application and in the interests of visual amenity.

7. No residential use shall take place until there has been submitted to and approved in writing by the local planning authority full details of a scheme of landscaping and the scheme shall be carried out as approved. The details shall include an indication of all existing trees and hedgerows on the land and provide for the retention of the boundary trees and hedgerows; new planting; means of enclosure; hard surfacing materials; external illumination and an implementation programme.

Reason: To enable the Local Planning Authority to regulate and control the development of land and to protect the visual amenities of the locality.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the approved implementation programme. Any trees or plants which within a period of 5 years from the date of the completion of the implementation programme die, are removed or become seriously damaged or diseased shall be replaced in the next planting seasons with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: To protect the visual amenities of the locality.

9. No residential use shall take place until details of the external finish and colour of the static caravans hereby approved have been submitted to and agreed in writing by the local planning authority. Works shall be carried out as approved and the static caravan stationed on the site shall be retained in accordance with the approved colour scheme thereafter.

Reason: To protect the visual amenities of the locality.

10. The vehicle turning area, as shown on the approved site layout plan and the motor vehicle parking area approved under application 04/00551/AS, shall be retained in the approved form and shall not be used for any purpose other than the parking and manoeuvring of vehicles.

Reason: To maintain highway safety.

11. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

12. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach

of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

Reason: In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

Note to Applicant

1. Working with the Applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance,

- The agent acting on behalf of the applicant was contacted early into the assessment process to clarify the appropriate use of the variation of condition application. The officer was satisfied that following further information provided the application could be assessed to consider an increase in the number of units on site; and
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference 16/01493/AS.

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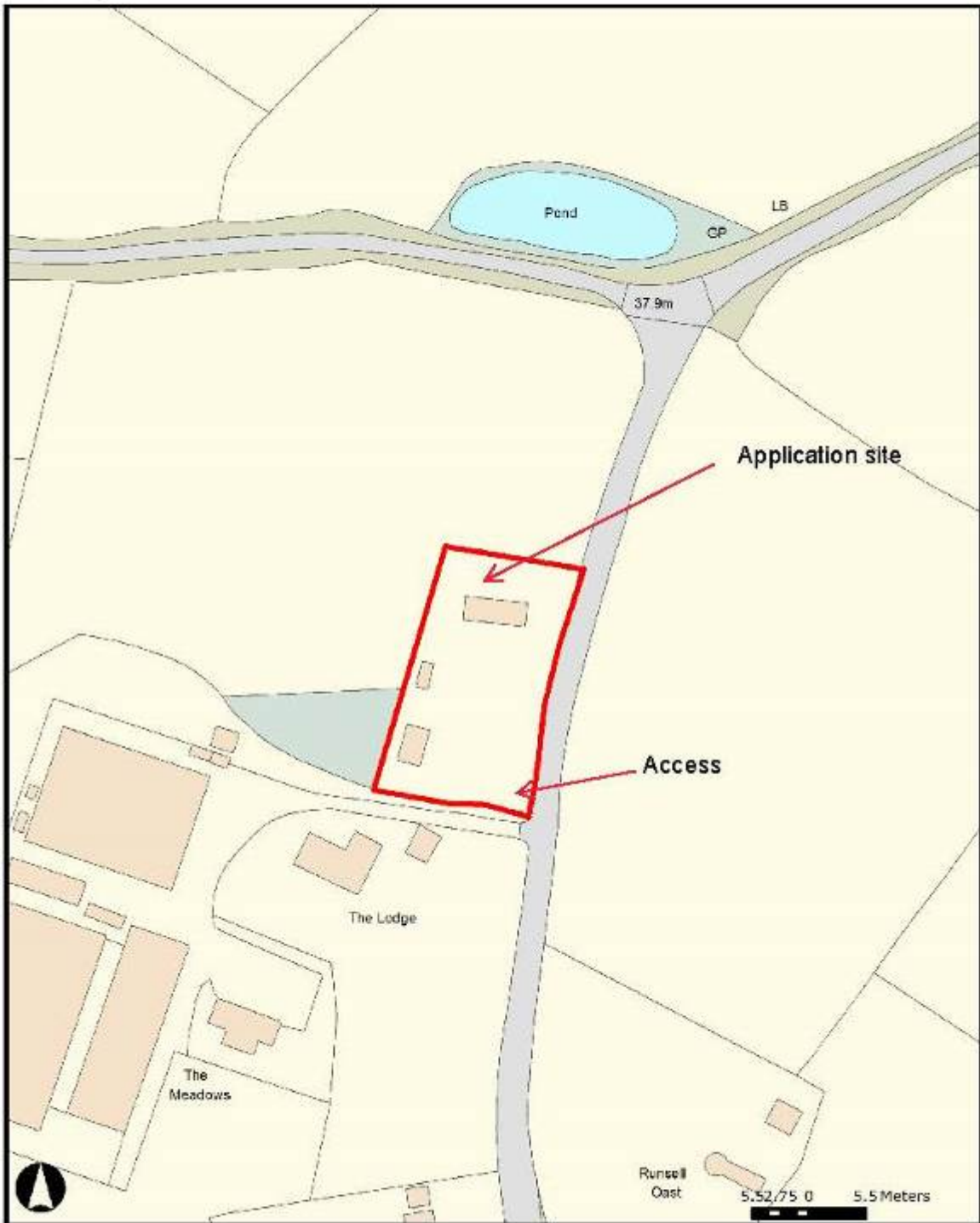
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Annex 1



Ashford Borough Council



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